

Policy Analysis of Non-collected Value Added Tax on Import of Taxable Goods for Geothermal Utilization Activities

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Abstract: Value Added Tax is not collected on imports of Taxable Goods for geothermal utilization activities is a policy to support government programs related to electricity availability. Previously, the import had been given a free facility. The mining industry that gets this facility is only a geothermal industry. Based on this background, the researcher wants to analyze the facility's policy in terms of the principle of neutrality and the principle of justice and analyze the implications that the facility has for the Income Tax burden and tax administration for the old and new regime's geothermal businesses. The research method used in this thesis is a qualitative research method. The data used was obtained by conducting in-depth interviews with several speakers who were considered relevant to the issues raised. Based on the results of the analysis, the Value Added Tax facility is not in accordance with the principle of neutrality and the principle of fairness because it distorts the choice of industry in importing goods, there is a possibility that goods imported by geothermal businesses are not really used for geothermal operations, and cause different treatments with other mining industries. The implication of this facility is an increase in the Corporate Income Tax for the old regime and a decrease in the Corporate Income Tax for the new regime, as well as more time and cost savings in the process of filing the facility compared to the Value Added Tax facility being waived.

1 INTRODUCTION

Energy is a global issue that has a significant influence on people's life activities. Energy plays an important role in supporting various social and economic activities of the community, including electricity generation. Indonesia is the country with the largest energy consumption in the Southeast Asian region and ranks fifth in the Asia Pacific in primary energy consumption, after China, India, Japan and South Korea (BPPT, 2018). The high GDP growth, reaching an average of 6.04% per year over the 2017-2050 period, is expected to further encourage an increase in Indonesia's energy needs in the future by 5.3% per year (BPPT, 2018).

The majority of meeting the world's energy needs, including Indonesia, still relies on energy derived from fossil fuels. The high rate of consumption of fossil energy results in an imbalance between the rate of use of fossil resources (petroleum, natural gas, and coal) with the speed of finding new reserves, so it is estimated that in the near future fossil energy reserves will run out, and Indonesia will be very dependent on energy imports (EBTKE, 2017). One source of

energy derived from fossil fuels that are widely used by various countries in the world, including Indonesia is oil and gas and currently to meet oil and gas consumption, Indonesia is dependent on imports. Based on BPS data, oil and gas imports from January to October 2018 amounted to 24,968.20 million US \$, an increase of 27.72% from the January-October 2017 period which only amounted to 19,548.60 million US \$. Then it can be seen from Indonesia's trade balance in the period of October 2018 that experienced a fairly steep deficit of USD 1.82 billion and oil and gas became the main component causing the deficit.

Based on BPS data, the oil and gas trade balance deficit of USD 1.4 billion is greater than the non-oil and gas trade balance deficit of only USD 393 million (www.ekbis.sindonews.com, 2018). Therefore, new sustainable energy is needed that can create resilience for the future. The high demand for energy derived from oil and gas fuels not only causes an increase in imports and a trade balance deficit but also causes environmental damage and is difficult to achieve Indonesia's greenhouse gas emission reduction

commitments listed in First Nationally Determined Contribution.

Based on the 1987 Conceptual Report entitled "Our Common Future" presented by The World Commission on Environment and Development, to address global issues such as economic growth, environmental protection, and social justice, there needs to be "Sustainable Development" as a general solution to these three global problems (Brundtland, 1987). Therefore, the Government is carrying out sustainable development by developing new and renewable energy (hereinafter referred to as EBT in Indonesia). To accelerate the development of EBT, in 2014 the Government issued Government Regulation Number 79 of 2014 concerning the Kebijakan Energi Nasional or National Energy Policy (hereinafter referred to as KEN) and in line with the policy, the Government also issued Indonesian Presidential Regulation Number 5 of 2006 concerning KEN to develop alternative energy sources as a substitute for fuel oil (Hermanto, 2018).

In addition, the Government issued a policy related to the development of Indonesian energy which is regulated in Perpres No. 22 of 2017 concerning the National Energy General Plan (hereinafter referred to as RUEN which stands for Rencana Umum Energi Nasional) promulgated on March 13, 2017. For electricity supply, the Ministry of Energy and Mineral Resources is tasked with carrying out conservation on the downstream side of carrying out the construction of renewable energy power plants. One focus in the RUEN Presidential Regulation is related to electricity. This is due to the large energy needs of the final type of electricity. Renewable energy becomes an alternative energy to replace fossil fuel energy, especially oil and gas. Renewable energy sources include energy from the sun, water, wind, waves, tides, and geothermal. Of the several energy sources, the main concern is geothermal energy because geothermal is effective enough to be converted into electrical energy.

Indonesia's geothermal energy potential has been estimated at 28,617 MW, which is around 40% of the world's geothermal potential (Bina, Jalilinasrabady, Fujii & Pambudi, 2018). However, only about 4.5% is used as a supply of electrical energy in the country. The obstacle in developing the second geothermal business is the low investment. Therefore the government provides tax facilities in the form of Value Added Tax (VAT) not levied on the import of taxable goods for geothermal utilization activities regulated in PMK Number 137 / PMK.010 / 2018. This facility is only provided for geothermal businesses, this causes a reduction in the portion of

VAT neutrality and does not meet the principle of tax justice, and reduces the potential revenue that can be obtained by the state. Not only that, to get this non-collected VAT facility, geothermal entrepreneurs must submit a non-collected VAT request to DJBC by attaching an RKBI that has been verified by the Ministry of Energy and Mineral Resources.

Based on the background of the problem, the author decided to raise the policy analysis of the VAT facility not being levied on the import of taxable goods for geothermal business utilization activities into a study. Thus, the main research questions can be formulated as follows:

1. How is the imposition of non-collected VAT facilities on taxable goods imports for geothermal utilization activities in terms of the principle of neutrality and the principle of tax justice?
2. How are the implications of the imposition of VAT facilities not being levied on taxable goods imports for geothermal utilization activities on the burden of Income Taxes and tax administration for geothermal businesses of the old and new regimes?

2 THEORETICAL REVIEW

2.1 Fiscal Policy

According to Mansury (1999), fiscal policy can be interpreted in broad and narrow terms. Fiscal policy, in a broad sense, is a policy to influence public production, employment opportunities, and inflation. While the fiscal policy in the narrow sense is tax policy.

Fiscal policy objectives include (John F Due in Rahayu, 2010):

1. To increase GDP and economic growth or improve economic conditions;
2. To expand employment opportunities and reduce unemployment or seek employment opportunities and maintain prices stable in general;
3. To stabilize the prices of goods in general, especially overcoming inflation.

2.2 Tax Policy

Tax policy is not only related to the determination of the tax base, tax subjects, tax objects, the amount of tax owed, and the procedure for carrying out the tax liability, but more than that the tax policy must represent the government's commitment to the

welfare of the community, encourage the development of the business world, and the achievement of programs other government programs (Rosdiana & Irianto, 2011).

According to Rosdiana & Irianto, 2014, p. 85-102 important issues in tax policy are supply-side tax policies which are divided into two forms, namely tax cut policy (reduction of tax burden) and tax expenditure (loss of potential taxation). Tax policy has two functions, namely the budget and regulated functions (Mansury, 1999).

2.3 Value Added Tax

According to David Williams in Rosdiana, Irianto, Putranti (2011), the term VAT is preferred to 'goods and services tax.' Therefore, VAT is more directed to taxes on goods and services. The VAT is basically VAT collected several times (multiple stage levies) or the basis for added value arising on all production and distribution lines (Rosdiana, Irianto, Putranti, 2011).

The application of VAT must meet the requirements including:

1. It must be neutral and not distort people's choices;
2. the distortion caused by choice is an overload of taxation;
3. Don't let the tax reduce the efficiency of the national economy..

2.4 Legal Character of VAT

The legal character of VAT is the same as the legal character of the sales tax, which is expanded (Rosdiana, Irianto, and Putranti, 2011):

1. General, This means that VAT is imposed on all or a large number of goods (and including services).
2. Indirect means that VAT is an indirect tax that has the following characteristics:
 - a. do not differentiate from taxpayers such as the amount of income, but will only be taxed if at any time there is an event or act such as the delivery of goods;
 - b. the tax burden can be delegated either in whole or in part to another person or party, which may be in the form of forward-shifting or backward-shifting.
3. On Consumption, means that VAT is a levy on expenses for consuming all kinds of goods, including services. The VAT is imposed on the consumption of goods and/or services in the country, so that if not abroad taxed.

2.5 VAT Neutrality Principle

According to Nightingale in Mahardhika (2014) that:

"a tax is said to neutral if it does not distort economic choices; this distortion of economic choice is known as the excess burden of taxation, causing substitution effect resulting in economic inefficiency."

The principle of VAT neutrality means that taxes must be free from distortions, both distortion of consumption and production as well as other economic factors. The VAT should not affect the choice of producers to produce goods and services (Sukardji, 2012). According to Terra (1988), one aspect of internal neutrality is legal neutrality which means that VAT must be levied on "general tax on consumption" which is imposed on individual consumer expenditure (last consumer) in the country.

Based on the OECD (2015a) to overcome tax distortions, the design of tax policies must meet the principles/principles of neutrality and fairness. Taxation must be neutral and fair for all forms of business activity. With the principle of neutrality, tax policy becomes non-distorting and economic efficiency (Leijon, 2015). The principle of justice is the most widely recognized tax principle and covers how the tax burden is distributed as evenly as possible (Oestreicher & Spengel, 2007). The principle of universality requires equal treatment of all taxpayers or taxes must involve all members of the community without exception (Seligman, 1895).

2.6 VAT Taxation Jurisdiction

There are two principles relating to the jurisdiction or authority of tax collection, which includes (Rosdiana, Irianto, and Putranti, 2011):

- a. Origin Principle means that a country that is entitled to tax is the country where the goods were produced or where the goods originated.
- b. Destination Principle means that a country that has the right to impose a tax is the country where the goods are produced or where the goods are consumed.

2.7 VAT Facilities

PPN facilities There are two PPN facilities provided by the Government, namely:

- a. Exemption, Tait (1988) explains the exemption as follows:

"exemption actually means that the exempt trader has to pay VAT on his inputs without being able to claim any credit for this tax paid on his input."

- b. Zero Rate, Tait (1988) explains the exemption as follows:

"Zero-rating means that a trader is fully compensated for any VAT he pays on inputs and genuinely is exempt from VAT."

2.8 Import Concept

According to Purwito (2006), import is an activity of entering goods into customs areas, whether carried out by individuals or legal entities. Import activities must be followed by fulfilling customs obligations, such as the submission of customs declarations, payment of import duties and taxes in the framework of import which includes import PPh (Article 22), VAT and Luxury Sales Tax and the completeness of the required documents.

3 RESEARCH METHODS

The research approach used in this study is a qualitative approach. A qualitative approach is an approach to explore and understand the meaning of individuals or groups related to existing social problems (Cresswell, 2014). The author uses description research because the author tries to present a complete picture of a social phenomena by exploring and clarifying, so that a deeper and comprehensive understanding of the imposition of the non-collected VAT facility is reviewed from the principle of neutrality and the principle of fairness and the implications of the imposition of the facility on the facility PPh burden and tax administration for the old and new regime's geothermal business. Data collection techniques used by researchers are as follows:

- a. Qualitative Document
- b. Qualitative Interviews / Field Research, in-depth interviews were conducted with Directorate General of Taxation (DGT), Badan Kebijakan Fiskal (BKF) / Fiscal Policy Agency, the Ministry of Energy and Mineral Resources, PT PGE, DJBC, and academics.

4 DISCUSSION

4.1 The Application of Non-collected Value Added Tax Facilities on Imports of Taxable Goods for Geothermal Utilization Activities from the Principle of Neutrality and the Principle of Tax Justice

The provision of VAT facilities must be in accordance with the mandate of article 16B of the VAT Law, which is to encourage high-priority economic sectors on a national scale, encourage business economy, and increase competitiveness, and others. The VAT facility is provided to Taxable Person with the aim of encouraging the growth of the business sector concerned, helping the liquidity of the company or to support Government programs that concern the lives of many people (Sukardji, 2006).

As a manifestation of the Government's support to realize the acceleration of the 35,000 megawatts (MW) power plant development program which aims to meet electrification targets in Indonesia by up to 100% and also to achieve the target of renewable energy mix in 2025 by 23% in accordance with what is mandated in the KEN. The government provides a non-collected VAT facility for taxable goods imports for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018 concerning the sixth amendment to the Decree of the Minister of Finance number 231 / KMK.03 / 2001 concerning the treatment of Value Added Tax and Sales Tax on Goods Luxury for taxable goods imports exempt from the import duty levied in effect on November 1, 2018. Previously, facilities for geothermal exploration and exploitation activities had been provided in PMK 196 / PMK.010 / 2016. This non-collected VAT facility does not stand alone but is followed by the exemption of import duty. In addition to VAT and Import Duties, for importing taxable goods for geothermal business activities, there is also a facility to exempt 22 import income tax.

Through the free collection of VAT facilities realized in PMK 137 / PMK.010 / 2018, it is expected to be a solution to the problems faced by the geothermal industry, one of which is related to investment, because the geothermal industry requires a large investment in exploration and exploitation activities. In fact, this facility cannot fully overcome the problems faced by geothermal businesses, because geothermal problems are so complex, not only related to investment, but there are other problems including the certainty of the selling price

of electricity, difficulties in licensing, legal certainty related to the land status, and social issues.

The granting of VAT facilities is free from the background of the demand for tax facilities carried out by the geothermal industry itself through its ministry, the Ministry of Energy and Mineral Resources, which then sends a letter to the Ministry of Finance to be granted VAT facilities for import of taxable goods for geothermal utilization activities.

In addition, there are a number of factors behind the provision of the non-collected VAT facility, which includes:

- a. There is a different treatment or not equal treatment between JOC and PT PGE and PT Geo Dipa Energi, both of which are the old regime geothermal industry which is operationally treated equally and should be treated the same in terms of taxation. The difference between the Joint Operating Contract (hereinafter referred to as JOC) with PT PGE and PT Geo Dipa Energi is only the presence or absence of the contract. JOC is a cooperation contract between Pertamina and the contractor. Whereas PT PGE and PT Geo Dipa Energi are the old regimes that do not use contracts.
- b. There is a change in the Geothermal Law, namely Law 21 of 2014, which was previously regulated in Law 27 of 2003. The difference in the Act is that Law 27 of 2003 has not been regulated related to the utilization. The Act only regulates related to exploration and exploitation. Whereas Law 21 of 2014 has been regulated in relation to utilization, where there are two uses of geothermal energy, namely direct use and indirect use. Indirect use itself is divided into three stages, namely exploration, exploitation, and utilization. So it can be said that there is an additional categorization in the new geothermal law, namely Law 21 of 2014. With the regulation related to the indirect utilization activities contained in Law 21 of 2014, the government provides a VAT facility not to be levied on imports of taxable goods for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018 because basically the purpose is to provide tax facilities for Geothermal is supporting electricity or electricity generation.
- c. To attract investors, because the geothermal business is a business that requires a high cost and has a large risk or risk of failure at the exploration stage, so it makes investors hesitant in investing in geothermal businesses.

In the process of formulating the non-collected VAT facility that is regulated in PMK 137 / PM.010 / 2018, the actors involved are relevant stakeholders including BKF, the Ministry of Finance, namely DGT, Legal Bureau, DJBC, MEMR. The Minister of Economy and Industry concerned is the Geothermal Association (API), PT Geo Dipa Energi, and PT PGE.

The urgency or importance of the VAT facility is not collected on imports of taxable goods for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018 given to the geothermal industry is because it is a renewable energy that can produce electricity and Indonesia has a large geothermal potential but has not yet maximally utilized.

According to Nightingale (in Mahardhika, 2014) that:

“a tax is said to neutral if it does not distort economic choices; this distortion of economic choice is known as the excess burden of taxation, causing substitution effect resulting in economic inefficiency.”

The imposition of VAT on imports of taxable goods for geothermal utilization activities will hamper the Indonesian economy, particularly from the geothermal industry sector which incidentally is aimed at producing electricity which is one of the main needs of the Indonesian people. The imposition of VAT will also reduce the growth of the geothermal industry, with the existence of the VAT being a burden for the geothermal industry because it has to pay more to pay VAT at the time of taxable goods import. In addition, the imposition of VAT can reduce investment interest in investors in the geothermal industry, because assessing the costs that must be incurred to conduct geothermal utilization is quite high.

Based on the consideration of the principle of VAT neutrality put forward by Nightingale and the conditions occurring in the geothermal industry in Indonesia, the Government decided that for the import of taxable goods for geothermal utilization activities a VAT facility was not collected, because if imposed VAT would result in reduced investment and non-operation government programs related to electricity availability.

One of the principles of VAT is neutrality. Ben Terra (1988) argues that there are three internal neutralities, one of which is Legal Neutrality, in which VAT must be imposed on "general tax on consumption" that is imposed on the expenditure or expenditure of individual consumers (last consumers) in the country. So it can be said that if there is consumer spending or expenditure that is not subject

to VAT, then this means it has deviated from legal neutrality. In line with this, according to Gunadi (1997), the characteristic of VAT neutrality is formed one of them by the VAT factor imposed on the consumption of goods and/or services.

Therefore, based on the neutrality theory put forward by Ben Terra and Gunadi, the granting of the VAT facility is not levied on imports of taxable goods for geothermal utilization activities that do not meet or deviate from the principle of VAT neutrality. This is because with the act of consumption of goods or in this case the import of goods that are not subject to VAT is the goods used for geothermal utilization activities such as generators, turbines, and others.

According to Sukardji (2012), The principle of VAT neutrality means that taxes must be free from distortions, both distortion of consumption and production as well as other economic factors. This means that VAT should not influence the choice of producers to produce goods and services. Therefore, it can be said that the application of the principle of VAT neutrality aims not to distort people's choices and not reduce the efficiency of the national economy. To overcome tax distortion, the design of tax policies must meet the principle of neutrality/fairness (OECD, 2015a). Taxation must be neutral and fair for all forms of business activity. Taxation is considered neutral and unjust when it is only imposed on certain business activities. With the principle of neutrality, tax policy becomes non-distorting and economic efficiency (Leijon, 2015).

Based on the results of in-depth interviews with Rega Irawan Daniarto as the Implementer of Aneka Tambang, DJBC that the Government's policy not to collect VAT is not in accordance with the principle of VAT neutrality stated by Sukardji and Leijon because of the geothermal industry which is capital intensive and has high prices for spare parts, so it is not maybe the geothermal industry doesn't use facilities. With the existence of this free PPN facility, it distorts or influences the geothermal industry to use the PPN facility. This is due to the benefits obtained from geothermal businesses compared to if they do not use the VAT facility at all or use the released VAT facility, which must go through the SKB application in advance.

Then based on the results of an interview with Andry Irwanto as Implementer of the Industrial VAT Regulations Section 1, the DGT that this VAT facility is not collected can be considered neutral if it is actually used by the geothermal industry in geothermal operations and its application does not deviate from the aim of the VAT facility. This is levied on increasing investment, developing the

geothermal industry so that it can provide electricity for the community. So it can be said that the government's policy not to collect VAT on the import of taxable goods for geothermal utilization activities, can be considered to meet the principle of neutrality as long as it does not deviate from the explanation in Article 16B of the VAT Law.

The VAT neutrality principle is applied to achieve justice, or it can be said that the VAT neutrality principle is applied with the aim that the same treatment occurs for all WP. Based on the results of an interview with Andry Irwanto as Implementer of the Industrial VAT Regulations Section 1, the DGT that the principle of neutrality is explained in Article 16B of the VAT Act which states that one of the principles that must be upheld in the taxation law is to apply and apply the same treatment to all WP (not object, but subject), or to cases in the field of taxation which are in essence the same as holding fast to the provisions of the legislation.

The principle of justice is the most widely recognized tax principle and covers how the tax burden is distributed as evenly as possible (Oestreicher & Spengel, 2007). This principle of justice relates to the distribution of an equitable tax burden to all people. According to Seligman (1895), the principle of universality requires equal treatment of all taxpayers or taxes must involve all members of the community without exception. The VAT facility must cover all taxpayers and may not only be intended or enjoyed by a group or group of taxpayers, whether based on ethnicity, race, religion, social class, or nationality.

The provision of the non-collected VAT facility is not in accordance with the principle of justice proposed by Seligman, this is in accordance with the results of an interview with Ami Muslich as Head of Services and PTLT VAT Subdivision, BKF which states that the VAT Facility is not collected can distort and cause injustice to other industries in addition to geothermal in importing because other industries not getting VAT facilities are not levied on the import of the taxable goods. Then Prianto Budi S., as a Lecturer in Taxation of Fiscal Administration also stated the same thing that the PPN facility is not collected is not in accordance with the principle of justice proposed by Seligman because this facility distorts the oil and gas industry. The oil and gas industry only gets VAT facilities and is not levied on taxable goods imports for exploration and exploitation activities. It is thus distorting the oil and gas industry in importing taxable goods for utilization activities. This different treatment also creates injustice. This means that it can be said that the granting of the non-collected VAT

facility that is given only to geothermal businesses deviates from the principle of justice.

In addition, based on the results of in-depth interviews with Prianto Budi S., that the VAT policy is not collected is also not in accordance with the principle of justice stated by Oestricher & Spengel; this is because Geothermal investors obtain facilities, while other mining investors such as minerba do not get facilities. This means that it is unfair. The definition of justice is the existence of equal treatment of all taxpayers. Therefore, at the macro level, the mining industry is equally treated differently.

4.2 Implications of Non-collected Value Added Tax Facilities for the Import of Taxable Goods for Geothermal Utilization Activities

There are differences in tax treatment between the old regime, in this case, PT PGE with the new regime. The difference in treatment in terms of business licenses between the old and new regimes is in accordance with Law No. 21 of 2014 concerning

Geothermal Energy, which for new geothermal entrepreneurs is required to have a Geothermal Business License.

Based on the results of in-depth interviews with Dedy Mulia Syahputra as Assistant Accounting Tax Manager and Talent Novianti as Analyst Tax Payable at PT PGE that the old regime's geothermal business namely PT PGE was treated as a specialist lex where there was an obligation to deposit the government's portion of 34% in lieu of payment PPh. Then in the case of VAT, the old regime did not apply credit Input Tax. The system adopted is reimbursement, so the deposit of VAT to the country will be reimbursed. Whereas the new regime's geothermal business for the tax system is not a specialist, meaning that it uses the normal taxation system with normal tariffs, both VAT and PPh. Another difference between the old and new regimes is in terms of audits, for the old regime the audits are carried out by the DJA, while the new regime is by the KPP.

Different taxation systems between the old and new regimes have an effect on the imposition of both Income Taxes. The differences in the taxation system can be seen in Table 1 below:

Table 1. PT PGE Transaction Scheme and New Regime Geothermal Business Imposed by VAT

Old Regime Geothermal Business (PT PGE)	The New Regime Geothermal Business
Electricity Sales = VAT exempted (PP 81 of 2015)	Pajak Keluaran (Penjualan Listrik) = PPN dibebaskan (PP 81 Tahun 2015)
a. Import of Taxable Goods = zero-rate VAT (PMK 137 2018)	Pajak Masukan
b. Obtaining Taxable Goods and/or Taxable Services = subject to VAT without facilities	Import taxable goods = PPN tidak dipungut (PMK 137 Tahun 2018) Perolehan taxable goods dan/Atau JKP = dikenakan PPN Tanpa fasilitas

Source: processed by the researcher (2019)

Based on table 1, it can be seen that PT PGE with Lex specialist treatment cannot credit input tax. So that the payment of VAT to the country can be reimbursed as long as the tax invoice used as proof of tax collection is considered related to geothermal operations. If the PPN reimbursement request is rejected, then the VAT paid listed in the Tax Invoice cannot be charged or the term is not deductible expenses, and this affects the Corporate Income Tax of PT PGE. The tax that has been paid to the country when it cannot be charged, then this can cause the corporate income tax to increase or be greater. This is because the costs or in this case the tax paid to the state cannot be charged or cannot be deducted from gross income, causing a greater Taxable Income and

this causes a domino effect, i.e., the Corporate Income Tax Income is also greater or increased.

Unlike PT PGE, the New Regime Geothermal Business applies a credit tax input system. Based on the table above, Input Tax consists of VAT payments on imports of taxable goods for geothermal utilization activities regulated in PM 137 / PMK.010 / 2018 provided the PPN facility is not collected, this means there is no tax paid by the New Regime Geothermal Business for taxable goods that can be imported. And payment of VAT on the acquisition of taxable goods and/or JKP subject to VAT without tax facilities. Therefore, because the Output Tax is given a released VAT facility, the VAT paid on imports, and the acquisition of taxable goods and/or JKP cannot be credited in accordance with Article 16B of the VAT

Law. Therefore, the VAT deposited on taxable goods imports for geothermal utilization activities and the acquisition of taxable goods and/or JKP from within the customs area cannot be credited and cannot be compensated, so the VAT payment can be borne by the company or called deductible expenses. Input Tax that has been paid to the country when it can be charged, this can cause the corporate income tax to

decrease or be smaller. This is because the cost or in this case the input tax that has been paid to the country can be charged or can be deducted from gross income, causing Taxable Income to be smaller due to increased costs and this has a domino effect, i.e., the Corporate Income Tax is also smaller or decreasing. The implications of VAT not collected against this PPh burden are illustrated in Table 2 below:

Table 2 Impact or Implication of Zero-Rate VAT on Imported Goods for Geothermal Utilization Activities Against Income Tax Burden

Category / Regime	Old Regime (PT PGE)	New Regime
Crediting Mechanism	Does not apply input tax crediting, but VAT Reimbursement	Implement credit input credit
Impact of VAT that cannot be reimbursed	Nondeductible Expense CIT Increases	Deductible Expenses CIT Decreases

Sumber: processed by the researcher (2019)

In addition, the VAT facility not collected, which is regulated in PMK 137 / PMK.010 / 2018 also affects the tax administration system, namely in the process of filing the VAT facility. Before this non-collected VAT facility was provided to the old and new regime's geothermal businesses, both facilities were provided free facilities regulated in PP 81 of 2015. For the import of taxable goods for geothermal utilization activities prior to the enactment of PMK 137 / PMK.010 / 2018, the industry gets the PPN facility freed by first applying for a VAT SKB on the import of taxable goods for geothermal utilization activities. The VAT exemption facility for the import of taxable goods is regulated in PP 81 of 2015, which the procedure is regulated in PMK 268 of 2015.

The import VAT exemption facility stipulated in PP 81 of 2015 can not only be used by the geothermal industry, but for any taxable person that carries out strategic delivery and/or import of taxable goods. This means that the scope of PP 81 of 2015 is broader and more general compared to PMK 137 / PMK.010 / 2018. Pursuant to Article 1 paragraph (1) letter a certain strategic taxable goods upon import are exempt from the imposition of VAT, which is factory machines and equipment which are a single unit, both installed and detached, which are used directly in the process of producing taxable goods by taxable person which produces taxable goods, not including spare parts.

PP 81 of 2015 is further regulated in Regulation of the Minister of Finance of the Republic of Indonesia Number 268 / PMK.03 / 2015 concerning the procedure for granting facilities to be exempt from the imposition of VAT on the import and / or delivery of certain strategic taxable goods and the procedure for paying certain taxable goods VAT

strategic nature that has been freed and the imposition of sanctions. Pursuant to article 4 paragraph (1) of PMK 268 2015, the taxable person conducting imports and/or receiving delivery of certain strategic taxable goods must have a VAT SKB prior to import and/or surrender. Where to obtain the VAT SKB, the taxable person must submit the application for the VAT SKB to the Director-General of Tax c.q. Head of KPP where the taxable person is registered and attach supporting documents.

Upon requesting the VAT SKB, the Head of the Tax Office on behalf of the Director-General of Taxes can issue the VAT SKB no later than five working days after the complete SKB PPN application is received. The VAT SKB is issued on certain strategic taxable goods which are approved to be given a VAT exempt facility either partially or wholly by the Head of the Tax Office on behalf of the Director-General of Taxes. The Head of the Tax Office on behalf of the Director-General of Taxes can cancel the VAT SKB in the event of a written error and/or a calculation error in the issuance of data and/or information obtained indicating that the taxable person is not entitled to obtain the VAT SKB. But also the Director-General of Taxes can also refuse the submission of requests for import VAT SKB made by the geothermal industry.

Then for certain strategic taxable goods which have been granted a facility exempt from the imposition of VAT, if within 4 years from the time of import and / or acquisition is used not in accordance with the original purpose or transferred to other parties either partially or completely, then the VAT has been exempt from the import and / or acquisition of said taxable goods must be paid.

Unlike the exempted VAT facility, the free-collected VAT facility regulated in PMK 137 / PMK.010 / 2018 is of a special nature, given one of them to the geothermal business. In PMK 137 / PMK.010 / 2018, the types of goods provided with facilities do not have any limitations, namely opening wide as long as they meet the provisions stipulated in Article 2 paragraph (4), namely as follows:

- a. These goods have not been produced domestically
- b. The goods have been produced domestically but have not met specifications
- c. The goods have been produced domestically but have not met the needs

Then there is no requirement for the geothermal industry to apply for the non-collected VAT facility, but there are conditions that must be met when submitting the exemption of the import duty. As in applying for a VAT exempted, to apply for a VAT facility not to be levied on the import of taxable goods for geothermal utilization activities, there are also procedures or steps that must be followed, namely at first the geothermal industry submits the Need for Imported Goods (RKBI) in advance to the Directorate Geothermal, EBTKE. Then when the RKBI has been processed, the exemption sketch will be submitted to the DJBC facility directorate, where the submission to the Facility Directorate will already use an application system called the soft fast application. If for the submission of the exemption regulated in PMK 78 of 2005 the service promise is for five days, while for the submission of the exemption regulated in PMK 177 of 2007 the service promise is for 15 days.

Based on the explanation above, it can be seen that for the activities of importing taxable goods for geothermal utilization activities before 2018 or before PMK 137 / PMK.010 / 2018 are published, and there are no regulations that specifically regulate the import of taxable goods VAT facilities for geothermal utilization activities. Therefore, the geothermal industry can apply for imported VAT facilities on the basis of general rules not only for the geothermal industry or EBTKE, namely PP 81 of 2015. Where to obtain import VAT exemption facilities for taxable goods used for these indirect utilization activities must first submit a SKB to the Director-General of Taxes. Whereas VAT facilities are not levied on the import of taxable goods for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018, there is no need to apply for SKB.

Therefore, PT PGE considers that the process of filing PPN facilities on imports using the SKB requires time and fiscal cost, so now the geothermal

industry prefers to use the non-collected VAT regulated in PMK 137 / PMK.010 / 2018.

Submission of VAT is exempt for the import of taxable goods used for indirect geothermal utilization activities with the SKB in the implementation of burdening PGE because for example in the PGE project in Paraha to obtain the VAT facility the first step is to registered KPP which takes a long time, i.e., up to the letter accepted according to the results of an in-depth interview with PGE for 5-7 days. PGE must also go directly to the Tax Office in applying for the VAT to be released. After that, PGE must take the SKB itself and then submit it to DJBC to get VAT exemption. The total time taken is estimated to be one and a half weeks or 10-11 working days.

In addition to having an impact on time costs, the filing of VAT exempted also has an impact on fiscal costs. Within the time period for filing VAT exemptions, the goods are stored in the customs warehouse, so PGE must pay the warehouse rent. Then if more than the retention period is subject to a fine, this is detrimental to PGE in terms of cost or fiscal cost. Therefore, the exemption facility for importing taxable goods used for this indirect geothermal utilization activity regulated in PP 81 of 2015 requires time and costs or it can be said that the released VAT has an impact on time cost and fiscal cost. So that PGE prefers to use the VAT facility not to be levied on the import of taxable goods that are used for indirect geothermal utilization activities.

Even though PGE and the new regime's geothermal effort assume that the VAT facility is exempt from importing taxable goods, it takes a long time and is a high cost, but actually, the DJBC itself has tried to accelerate the submission of the PPN exemption process.

PGE and the New Regime Geothermal Business prefer to use PPN facilities free of taxable goods imports for geothermal utilization activities because the non-collected PPN facilities have an impact on a simpler submission process. In accordance with the results of in-depth interviews with Deddy Mulia Syahputra as Assistant Tax Accounting Manager and Talenta Novianti as Analyst Tax Payable at PT PGE which stated that the implication of the existence of VAT facilities is not levied on the import of taxable goods for this utilization activity is to carry out import of taxable goods will be more effective, more efficient and more timely. The impact or implication of the non-collected VAT on the tax administration is illustrated in Table 3 below:

Table 3 Impact or Implications of Non-Collected VAT on the Import of Taxable Goods for Geothermal Utilization Activities on Tax Administration

Category/Tax Facility	VAT Exempted	Zero-Rate VAT
Duration of Facility Submission	- Proposing VAT facilities in the field for approximately 10-11 days - Flying for BM facilities for 15 days The total submission is approximately 25-26 days	- There is no requirement and procedure for applying for a VAT facility -Flying for BM facilities for 15 days Total 15 days submission
Costs Required	- Customs warehouse rental fee - Penalty for exceeding the retention period	Customs warehouse rental fee

Sumber : processed by the researcher (2019)

Therefore, based on table 3 it can be concluded that the VAT facility is not levied on the importation of taxable goods for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018, which has an impact on the tax administration system, which is in the process of filing VAT facilities that are becoming shorter and lower costs or the presence of VAT facilities have an impact on fiscal and time costs that must be incurred by geothermal businesses.

Although the VAT facility is not levied on the import of taxable goods for geothermal utilization activities, it has a positive impact on the administration in obtaining these facilities, but until now these facilities have not been utilized either by PT PGE or by the new regime's geothermal business, because there is no activity import of taxable goods for geothermal utilization activities.

5 CONCLUSION

The VAT facility is not levied on import of taxable goods for geothermal utilization activities regulated in PMK 137 / PMK.010 / 2018 does not meet the principle of neutrality and the principle of tax justice because the VAT facility not levied on the import of taxable goods distorts the choice of the industry in importing taxable goods for utilization activities and the possibility of taxable goods imported by the geothermal industry not really being used for geothermal operations, and the PPN facility is not collected, it is given only to the geothermal mining industry, so there is a different treatment from other mining industries.

The implication or impact of the existence of the VAT facility is not levied on the import of taxable goods for the old regime geothermal business is the increase in CIT, this is because the tax paid to the country for the import of taxable goods cannot be

charged due to the rejection of the filing of VAT reimbursement and for the new regime is a decrease in CIT, this is because the PM deposited to the country for the import of taxable goods can be charged or reduce income and have an impact on the decrease in taxable income. The impact on the tax administration system is that the process of filing VAT facilities will be more time-saving and cost compared to the exempt VAT facilities that were previously applied.

LIMITATIONS

A limitation in the study, entitled Analysis of the VAT Facility Policy, Free of Importing Taxable Goods for Geothermal Utilization Activities, was not conducted interviews with the Geothermal Association and the New Regime Geothermal Business, because both parties were not prepared to conduct in-depth interviews. This makes researchers unable to explain comprehensively related to the taxation system and problems in the field faced by the new regime's geothermal effort.

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