

**THE IMPOSITION OF LAND AND BUILDING FORESTRY TAX BASED
ON GOVERNMENT REGULATION NUMBER 25 OF 2002
(Study In Association of Indonesian Forest Concessionaires Holders
Office)**

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**THE IMPOSITION OF LAND AND BUILDING FORESTRY TAX BASED
ON GOVERNMENT REGULATION NUMBER 25 OF 2002
(Study In Association of Indonesian Forest Concessionaires Holders Office)**

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ABSTRACT

In writing a thesis the researcher discusses about The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002. The imposition PBB of forestry will be a excess or deficiency.

Tax payment must be paid by forest concessionaires holder. Besides that the imposition PBB forestry has heavy was not efficient, the researcher will analyze the implementation in the field. The approach method used in this thesis is Juridical-Empirical, discusses and analyze the legal issues which is set by juridical with towards fact empirical in the field. Data analysis technique used is descriptive qualitative.

Based on the research writer have outcomes, that implementation is still held by businessmen forest, with the process of payments are not complicate entrepreneurs the forest as taxpayer. But no, with total NJKP according to government regulation no 25 2002. Njkg to 40 % ineffective when worn on land forest.

See facts in the field we need to hope the government do the review against imposition pbb in the forest.

Keyword: Land and Bulilding tax, foresty tax, forest concessionaires holder

I. INTRODUCTION

The tax in Indonesia has an important role for state finances, approximately 70% of state revenues derived from taxes.¹ Therefore, no wonder if the role of tax as main things state finance, which means that if there will be no income for the state development. Indonesia has a regulation about taxation, there arranged on article number 23A Indonesian Constitution of 1945.

As the one of income source, tax become a state taxes and regional taxes. With the establishment of act number 28 of 2008 on Local Taxes and Retribution (PDRD), local taxation entirely the duty of Local Government, but there are exceptions to the tax plantations, forestry and mining (P3) collecting three sectors remains part of central tax.

Rules of PBB of forestry itself regulated regulation of Director General of Tax Number PER-36/PJ/2011 about The Imposition Of Land And Building Forestry. The determination of the value of selling taxable to tax object market value will be regulated in government regulation number 25 years 2002 on the provision of the magnitude of selling taxable to an enumeration of land and building tax. An amount determined by the government as much as 40 % of tax object market value. Every year more and more HPH that prefer not to operate. As much as is happening at HPH in 1994-2012 the number of HPH to 292 only a unit of natural forest.²

Based on introduction the researchers raised a topic of research in the field of administrative law concerning The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002 (Study In Association of Indonesian Forest Concessionaires Holders).

¹ Tunggal Anshari Setia Negara, **Pengantar Hukum Pajak**, Bayumedia, Malang, 2008. Hlm. 2

² Data jumlah statistik HPH untuk Hutan Alam diolah oleh APHI.

II. PROBLEM STATEMENT

Based on explanation introduction, therefore the researcher raises several problem statement i.e.

1. How does the process of implementation The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002?
2. How is the effectiveness of The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002?

III. ANALYSIS

A. implementation The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002

1. The Name Of Research Location

Institutions that used as a place of research is the office of Indonesian Forest Concessionaires Association (abbreviated APhi) or in English can be translated with the name of the Association of Indonesian Forest Concessionaires Holders. APhi was established on November 21, 1983 and for an unspecified time. APhi located at Building Blocks 4 Lt. Mangala Wanabakti 9 Space 915-917 Jalan Gatot Subroto, Senayan, Jakarta, and has a zip code 10270.³

2. Function and Job desk Institution.

Association of Indonesian forest entrepreneur has a function as a forum for communication, information, consultancy, facilities, and advocacy with government foresters. This dimaksudkan forestry entrepreneurs to create a clean, transparent, accountable and professional.

In addition to the functions, APhi also have the task is to facilitate all forms of activities APhi members at the local level, nationally and globally in accordance with the aspirations and interests of all members as outlined in the policy lines and a work program for the organization as well as referring to the legislation in force.⁴

³ www.rimbawan.com/sekretariat accessed at July, 12th 2014

⁴ Buku Rapat Kerja Tahunan Asosiasi Pengusaha Hutan Indonesia Tahun 2013

3. potential forestry resources in Indonesia

As described in the introduction part of this research, state income derived from taxes. Indonesia as the country with the eighth largest forest area in the world. Based on the region inaugural in 2011, forest area and throughout Indonesian waters reach 130.68 million ha. According to Article 6 of Law No. 41 of 1999 on Forestry forest has 3 functions, namely Forest Preserve, Conservation Forests and Forest Production. Based on data from 2011-2030 RKTN know forest area in Indonesia demonstrated for broad area of conversion forest (HPK) covering an area of 13.73%, for Limited Production Forest (HPT) has an area of 18.72%, according to the previously mentioned regarding the functions of forests , Protected Forest (HL) has an area of 22.08%, Forest Conversion (HK) covering 20.52% and Production Forest (HP) area of 24.96%.⁵ Can be seen that the actual Indonesian forestry sector has the potential to advance the business economy of the country.

4. Association of Indonesian Forest Concessionaires Holders Member.

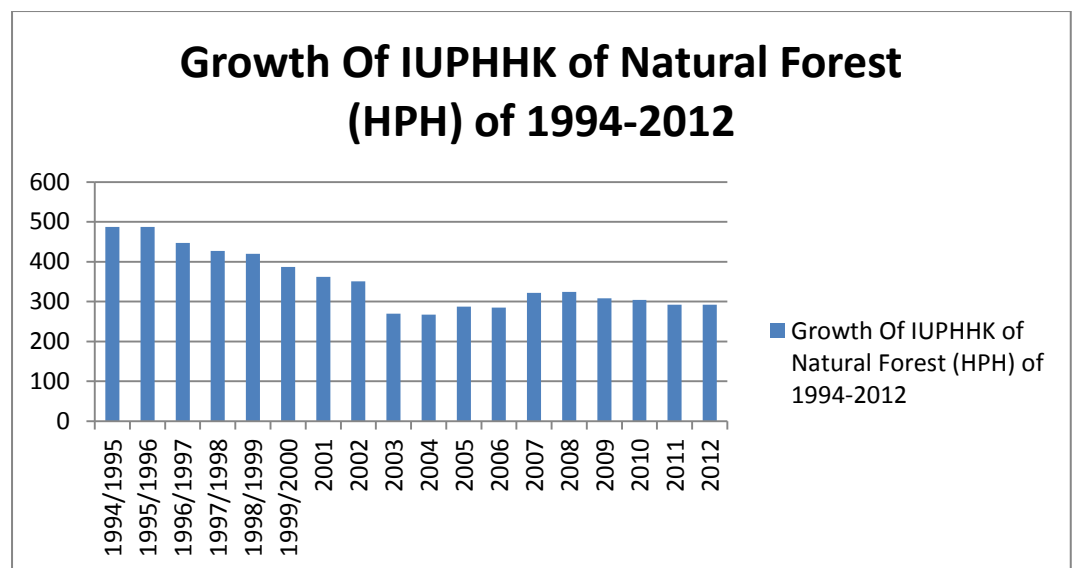
As one of the association or societies that exist in Indonesia, APHI have members spread around Indonesia. APHI given the authority of the Ministry of Forestry to manage, conserve, or producing forests in Indonesia, Natural Forest and Forest Plants that are outside the island of Java. Whereas for forest in Java are handled by Perum of Inhutani and for outside Java is managed by PT. Perhutani, this provision is based on Government Regulation No. 15 of 1972 and Government Regulation No. 2 of 1978, which was amended by Government Regulation No. 36 Year 1986 on State Forestry Public Company (Perum Perhutani). Based on the existing data in the year 2011 to 2016, members of this APHI has 270 members in 21 provinces.

Of the 270 registered members in APHI, Central Borneo has units of forest concessions (HPH) for utilization permit Natural Forest Timber Forest Products (IUPHHKHA) at most, which is 58 units, but for the total area of

⁵ Irsyal Yasman dan Purwadi Soeprihatno, Dunia Usaha Kehutanan: Besar Tapi Tak Berdaya, Lestari Tapi Tak Bersaing. Jakarta. Asosiasi Pengusaha Hutan Indoensia. Mei 2014. Hlm. 3

forest utilization, Papua province has extensive use of the most extensive forest area is 4,866,583 ha. Whereas for unit concession for exploitation permits Timber Forest Products Industrial Plantation Forest (HTI IUPHHK-) Riau province has the largest number is 31 units and the use of area-HTI IUPHHK owned by the North Kalimantan province with an area of 1,460,154 ha. However, there are exceptions to the DKI Jakarta, Yogyakarta, West Java, Central Java and East Java are not included in the membership APhi it is because all the provinces in the region Perum Perhutani.⁶

With the enactment of Government Regulation No. 25 Year 2002 on the Establishment of the sale value of taxable amount for the Calculation of Land and Building Tax Article 1 (a), with a percentage of 40% (forty percent) of the tax object sale value causes the number of existing concessions are declining number. The following table IUPHHK the growing amount of natural forest in 1994-2002.



Seen in 1994/1995 number of HPH is 487. But a decrease began in 1996/1997 a number of 447 and continued to decrease until in 2006 that starts with 487 units to 285 units. In 2007 an increase in the number of units IUPHHK 322 HA units. But again a decrease IUPHHK HA units and in 2012 292 units.

⁶ Interview with Mr. Rudi, staff office PT. Inhutani 3 gedung Manggala di Jakarta at June, 15th 2014

In Law No. 41 of 1999 on Forestry explains about the government granted permission to the subject of the UN in conducting their business activities. Contents of Article 28 paragraph (2) of Law No. 41 of 1999 states that the use of production forests is carried out through business licensing area utilization, utilization of environmental services business license, permit forest product utilization, permit utilization of non-timber forest products, permits harvesting timber, and permits collection of non-timber forest products.

As with any other granting permission, there are consequences that must be accepted if the permits holders committing an offense. Based on Government Regulation No. 6 of 2007 on Forest Management and Forest Management Planning and Forest Utilization. Below is a table that showing the form of sanctions according to weight violation.⁷

Table 2 Forms of Sanctions According weight of violation.

Weight of Violation	Form of Sanction
Weight	Revocation
Easy	Fee
More Easier	Dismissal of temporary administrative services and activities in the field

5. System of Collection and Basic Determanation Tax.

Taxation system charged taxpayer for payment of Tax on Land and Building Forestry sector is the system that is the collection Voorheffing done at the beginning of the year, while the basic stipulation for the government to use a fictitious system which means it is the government which sets the amount to be paid by the taxpayer. According with Government Regulation No. 25 of 2002, ie 40% of the Tax Object Sales Value of Forestry. Fictitious system is also used as a basis for the imposition of the tax is a Value Object Sales Tax (NJOP). But according to Mr. Nanang Roffandi not consider the basis for determining the fairness.⁸

⁷ Anonim Kelembagaan dan peran serta masyarakat dalam pengelolaan hutan (analisis hukum terhadap PP no. 2007) hlm 27.

⁸ Interview with Mr. Nanang Roffandi professional staff at Association of Indonesian Forest Concessionaires Holders Office at Jakarta Tanggal June 14 2014

6. According to Who Set.

According to Mr. Indra Kukuh staff expand on the Tax Assessment section of Office of Directorate of Jakarta, the determination of land and building tax Forestry Sector is currently performed by means of the self-assessment system⁹ which means that the Directorate General of Taxation gives authority to the taxpayer (Indonesian foresters) to calculate its own land and building tax amount to be paid to the Central Directorate through a bank that has been designated by the Association of Indonesian Forest Concessionaires. But in reality there is, which sets the value of land and building tax Forestry Sector can be done also with a mixed system that uses official and Self Assessment System Assessment System.¹⁰

B. Effectiness The Imposition Of Land And Building Forestry Tax Based On Government Regulation Number 25 Of 2002

1. Forestry Enterprises business are Strict to regulation.

Currently there are at least 19 types of settings and at least 32 regulations that exist in the scope of the Ministry of Forestry.¹¹ These regulations generally have a direct relation to the determination of the performance of the holder IUPHHK Natural Forest and Plantation Forest. The number of existing regulations, as well as the multi-interpretation of the above rules are not a little period of time in each is arranged, it is possible to be a factor in the increase of the business economics of forestry. The condition can become worse if the forest governance system has not met properly.

The data indicated in 2013 on forest governance shows that Indonesian forestry governance index is still relatively low at 2:53 of scale index 5 to the central government and 2.32 scale index 5 to the Local Government.¹² Based on the index data into a task or a big challenge for the government to make improvements forest governance system to increase transparency and

⁹ Interview with Mr. Indra Kukuh staff Of expand on the Tax Assessment Office of Directorate of Jakarta, at June 16 2014

¹⁰ Interview with Mr. Indra Kukuh staff Of expand on the Tax Assessment Office of Directorate of Jakarta, at June 16 2014

¹¹ Irsyal Yasman dan Purwadi Soeprihatno, *Op.cit.* Mei 2014. Hlm. 34

¹² *ibid*

akuntailitas forest management, as well as suppress the high cost of economic transactions in the business sector.¹³

In addition to full regulation, forestry businesses are full levy. Below is a table of countries that utilize natural forests to the economy.

Table 3. Comparison of Inter State Forestry Charges

No.	State Income	Indonesia	Brazil	Bolivia	Costarica	Malaysia	China	Papua
A.	Tax							
1.	Land and Building Tax	✓	-	-	-	-	-	-
2.	Income Tax (PPh)	✓	✓	✓	✓	✓	✓	✓
B	Non-tax state income (PNBP)							
1.	Licence Fee	✓	-	-	-	✓	-	-
2.	Provision Forestry Resources (PSDH)	✓	-	-	-	✓	-	✓
3.	Reforestation Fund (DR)	✓	-	-	-	-	-	-
4.	Replacement value of timber stand (PNT)	✓	-	-	-	-	-	-
5.	Local Taxation	✓	-	-	-	-	-	-
6.	Local society tax	✓	-	-	-	-	-	-

Source : Data Association of Indonesian Forest Concessionaires Holders Office

¹³ Irsyal Yasman dan Purwadi Soeprihatno, *Op.cit.* Hlm. 35

According Land and Building Tax principle there are four principles¹⁴:

- a) Provide ease and simplicity;
- b) legal certainty;
- c) Easy to understand and fair;
- d) Avoid double taxation.

If the concession holders are subjected to double taxation, it is certainly contrary to the principle of land and building tax applied. In addition, the double taxation of IUPHHK holders complicate both Natural Forest and Plantation Forests which is not providing the ease and simplicity and can not be understood and provide justice for IUPHHK holders in land and building tax forestry payment.

Authorized Law enforcement in terms of land and building tax payment Forestry Sector is extensification and Assessment section. In this section supervisor to supervise the payment of Tax on Land and Building in cooperation with the perception that the bank had previously appointed in each province.

IV. CONCLUSION AND RECOMENDATION

A. Conclusion

Based on the results and discussion above can be summarized as follows:

1. The process of implementation imposition of Impost the land and building tax Forestry basically been applied by foresters who are members of the Association of Indonesian Forest Concessionaires in accordance with Government Regulation No. 25 Year 2002 .. In order to process the payment itself are not difficult for foresters as a taxpayer because foresters can calculate and make payments directly (individual) to the designated

¹⁴ Dita Indriana Kartikasari, **Pelaksanaan Penagihan Pajak Secara Aktif Sebagai Upaya Pencairan Tunggakan Pajak Bumi dan Bangunan (studi di kantor Pelayanan Pajak dan Bangunan Kabupaten Cibinong)**, skripsi tidak diterbitkan, Malang, Fakultas Hukum Universitas Brawijaya.2007. Hlm 29

bank (bank designated by the central tax authorities) via certain accounts or taxation officer passed.

2. Land and Building Tax Forestry with Taxable Sales Value (NJKP) in accordance with Government Regulation No. 25 Year 2002 deemed less effective. Due to a percentage of 40% is considered too high for employers forest. With the high percentage of 40% NJKP then the cost will be higher as well, the impact of the high NJKP is the number of foresters who cease their activities. In addition, the imposition of Forestry Land and Building Tax not targeted because withholding is contained in the Income Tax charges (income), it is feared if the land and building tax charged will give rise to double taxation. It does not fit in the 4 principles contained in its own building tax to avoid double one.

B. Recommendation

Based on research conducted by the author, the author can provide suggestions as follows:

1. For Entrepreneurs Forest

- a. With the article 24 paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 as well as the general provisions of Article 1, paragraph (1) of the Supreme Court of the Republic of Indonesia Regulation No. 1 Year 2011. With two of the legal basis, the foresters have the force of law to apply the test load to the regulations of Government Regulation No. 25 of 2002 forest Especially for entrepreneurs who feel that their rights as a subject of law is violated by the provisions in Article 1 letter (b) of Government Regulation No. 25 Year 2002 course along with thousands of pages corroboration of the opinion of the respective parties.
- b. With the number of eight charges in the forestry sector causing the cost to be incurred. Government should only apply just a few rules such as tax levies producer (income tax), Licence fee, and Resource Provision (PSDH) for employers forest.

2. For the Tax Directorate extensification and Assessment.

To all those who are directly related to the Land and Building Tax Forestry especially the extensification and assessment are expected to conduct periodic surveillance over land and building tax payments Forestry, it is intended to prevent possible frauds committed by the taxpayer, and can provide sanctions for those who commit fraud.

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Wawancara

Wawancara dengan Bapak Nanang Roffandi tenaga ahli Asosiasi Pengusaha
Hutan Indonesia kantor APhi di Jakarta Tanggal 14 Juni 2014

Wawancara dengan Bapak Rudi, staf Kantor PT. Inhutani 3 gedung
Manggala di Jakarta tanggal 15 Juni 2014

Wawancara dengan Bapak Indra Kukuh staff Bagian Ekstensifikasi dan
Penilaian kantor Direktorat Pajak Pusat di Jakarta. Tanggal. 16 Juni 2014