

Legal and Fiscal Implications of Class C Mineral Tax on Geological Resource Management

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Abstract

This study examines the management of Group C minerals, focusing on challenges such as illegal mining, inaccurate valuation of sale value, weak supervision, and the lack of integration of environmental and social aspects in mining regulations. Through the analysis of Law No. 4 of 2009 on Mineral and Coal Mining and case studies in several regions, this study suggests the revision of regulations, improvement of supervision, application of information technology, and cooperation between governments for more effective management. These recommendations aim to assist policymakers in reforming the mining sector, especially for Group C minerals, to ensure its management is more equitable, efficient, and sustainable, while emphasizing the importance of adaptive and flexible policies to face global dynamics.

Keywords: Tax, Fiscal, Geology

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Introduction

The management of natural resources, especially in the mining sector, is one of the strategic sectors that play an important role in national development.¹ However, there are often problems in its management, especially related to legal and taxation aspects. As stated by Muh. Akbar Fhad Syahril, tax law is a collection of regulations that govern the relationship between the government as the tax collector and the citizens as taxpayers.²

One recurring issue is the presence of unauthorized or illegal mining activities. These activities not only violate regulations but also have negative impacts on the environment and the country's economy.³ According to data from the Ministry of Energy and Mineral Resources (ESDM),

there are more than 2,700 unauthorized mining sites spread across Indonesia, with 96 coal mining sites and 2,645 mineral mining sites.

Additionally, another frequent issue is tax evasion by mining companies. This phenomenon reflects the low compliance with tax payments in Indonesia, despite generally positive public sentiment towards taxation.⁴ Tax avoidance can create risks for companies, such as profit manipulation and harming the interests of shareholders and creditors.

Another issue is related to regulations that have not fully accommodated the interests of sustainable natural resource management. As Muh. Akbar Fhad Syahril expressed, the state must continue to

¹ Sinaga, N. A. (2018). Pemungutan pajak dan permasalahannya di Indonesia. *Jurnal Ilmiah Hukum Dirgantara*, 7(1).

² Syahril, M. A. F., Rifani, R. A., & Khaerul, K. (2023). *Pengantar Hukum Pajak*.

³ Putra, D. T., Yuwono, T., & Alfirhaus, L. K. (2023). Kebijakan Penanganan Pertambangan Emas Tanpa

Izin (PETI) di Kabupaten Bungo. *Ideas: Jurnal Pendidikan, Sosial, dan Budaya*, 9(2), 359-368.

⁴ Salsabila, F. n *Risiko Perusahaan Terhadap Penghindaran Pajak Pada Perusahaan Pertambangan (Studi pada sektor Pertambangan yang terdaftar di BEI periode 2018–2022) Setelah mencermati dan memperhatikan penampilan dan* (Bachelor's thesis, Fakultas Ekonomi dan Bisnis UIN Jakarta).

prioritize the principles of justice, certainty, and utility in regulating tax obligations.⁵ Therefore, it is necessary to refine the regulations to ensure a balance between economic, environmental, and social interests.

In the context of geology, a common issue is related to the management of groundwater. In Jakarta, for example, there are many cases of illegal wells that lack proper permits and are not subject to groundwater taxation.⁶ This certainly impacts the environmental condition and the loss of potential state revenue from the groundwater tax sector. Another issue that needs attention is related to the management of Group C minerals, such as stone, sand, and gravel. Regulations regarding the taxation of Group C mineral extraction are often not fully implemented properly, resulting in the potential loss of revenue for the regions.

Given the issues previously outlined, this research becomes highly urgent to conduct.⁷ Firstly, this research is expected to provide recommendations for refining regulations related to the management of geological resources and the taxation of minerals, thereby ensuring a balance between economic, environmental, and social interests. Secondly, the research aims to identify legal loopholes that allow for tax evasion and illegal mining activities, and to provide solutions to enhance compliance and law enforcement. Thirdly, the study is expected to map out specific issues related to the management of groundwater and Group C minerals, and to offer appropriate policy recommendations to address these issues. Thus, this research is crucial to achieve sustainable management of geological resources and optimize state revenue from the mining tax sector.

Research Methods

This research is a normative juridical study

that examines laws and regulations and their application in specific legal cases. This method aims to identify and analyze legal norms and their application in judicial practice to find solutions to legal issues encountered.⁸ The approach used includes a legislative approach, which involves an in-depth study of relevant laws and regulations to understand the applicable legal framework, as well as a case approach, which involves the analysis of relevant court decisions to understand how the law is applied in practice and how courts interpret and apply the law in actual cases.

The data used in this research consists of primary data obtained from legal documents such as legislation and court decisions, as well as secondary data that includes legal literature, articles, and scientific journals. Data analysis is conducted qualitatively, using a deductive method that starts from general legal theories and norms towards specific applications in the cases studied. The purpose of this research is to produce a deep understanding of the interaction between legislation and legal cases in legal practice, and to provide recommendations for improvements or changes in legal policies that can be more effective in addressing legal issues in the future.⁹

Analysis and Discussion

Challenges in the Implementation of Class C Excavated Tax Regulations

This research examines the regulations and legal implementation related to the taxation of Group C minerals, which are an important geological resource. The regulations governing the taxation of Group C minerals in Indonesia are stipulated in Law Number 4 of 2009 concerning Mineral and Coal Mining. This law states that local governments have the authority to regulate and receive taxes from the exploitation of

⁵ Syahril, M. A. F. (2022). *Dasar-Dasar Hukum Pajak*.

⁶ Hasan, H. (2023). Peran Kimia Lingkungan dalam Konservasi Sumber Daya Alam. *Jurnal Ilmiah Multidisiplin Amsir*, 2(1), 243-248.

⁷ Adrian Sutedi, S. H. (2022). *Hukum pertambangan*. Sinar Grafika.

⁸ Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode Penelitian Hukum*. CV. Gita Lentera.

⁹ Nawi, S. (2014). *Penelitian Hukum Normatif Versus Penelitian Hukum Empiris*. Umitoha Ukhuwah Grafika, Makassar.

Group C minerals.¹⁰

In practice, many regions face difficulties in effectively implementing these regulations. This is caused by various factors, including a lack of trained human resources and a weak monitoring system.¹¹ Akibatnya, banyak pelaku usaha yang not complying with their tax obligations, resulting in the potential revenue from this sector often not being optimized.

In addition, there is also an issue in determining the selling value of Group C minerals, which serves as the basis for tax imposition. Often, the set selling value is lower than the actual market value, resulting in suboptimal tax revenue received by local governments.¹² This indicates the need to revise and update the valuation standards being used.

Supervision of mining activities also becomes a critical issue in the management of Group C mineral taxes. Without adequate monitoring, many illegal mining activities go undetected and therefore are not taxed. This not only results in a loss of state revenue but also causes serious environmental damage.¹³

From a legal perspective, there is a need to enhance the capacity and authority of regulatory agencies at the regional level. This enhancement could include further training for law enforcement personnel and the provision of modern tools to monitor mining activities.¹⁴ This will assist in the identification and action against violations occurring in the field.

Existing legal cases indicate that weak law enforcement often becomes an entry point for practices of corruption and collusion in the management of taxes and geological resources.¹⁵ Therefore, this research also explores how stricter and more transparent law enforcement can reduce

corruption practices.

One solution that could be considered is the use of information technology in the taxation and monitoring systems. The implementation of Geographic Information Systems (GIS) and similar systems can assist local governments in more effectively monitoring and managing geological resources and mining activities. Additionally, there needs to be closer cooperation between the central and regional governments in managing the taxation of Group C minerals. This cooperation could include data exchange, joint training, and technical support that can help regions better implement regulations.¹⁶

Management and Law Enforcement Improvement Strategy

From a regulatory perspective, there is an urgency to revise and update Law Number 4 of 2009, particularly concerning the aspects of valuation and taxation of Group C minerals.¹⁷ This revision is expected to address the loopholes that are exploited to avoid taxes and to increase state revenue from this sector.

It is also important to consider environmental aspects in mining regulations. Stricter policies related to post-mining land rehabilitation and mine waste management must be strengthened to ensure that mining activities do not cause ongoing environmental damage.

In a global context, many countries have implemented best practices in the management of taxes and geological resources that can serve as references. Comparative studies of these countries can provide valuable insights into effective ways

¹⁰ *Vide* Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara.

¹¹ Bairizki, A. (2020). *Manajemen Sumber Daya Manusia (Tinjauan Strategis Berbasis Kompetensi)-Jilid 1* (Vol. 1). Pustaka Aksara.

¹² Nurmantu, S. (2003). Pengantar perpajakan. Yayasan Obor Indonesia.

¹³ Ismail, H. (2018). *Ekonomi Politik Pembangunan: Kajian Isu Ekonomi Politik Pembangunan di Indonesia*. Uwais Inspirasi Indonesia.

¹⁴ Hasibuan, E. S., & SH, M. (2021). *Hukum kepolisian dan criminal policy dalam penegakan hukum*. PT. RajaGrafindo Persada-Rajawali Pers.

¹⁵ Thohir, M. S. (2013). *Hukum Pembangunan:: Reformasi Perencanaan Pembangunan Nasional Serta Kebijakan Dan Pelayanan Publik*. Deepublish.

¹⁶ Adrian Sutedi, S. H. (2022). *Hukum pertambangan*. Sinar Grafika.

¹⁷ *Vide* Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara.

to manage these resources.¹⁸

Furthermore, this research also evaluates the social impact of mining activities, particularly on local communities. Often, local communities are the most affected by mining activities, yet they do not receive adequate compensation.

Therefore, there is a need to integrate social aspects into mining regulations, so as to create a balance between economic benefits and the welfare of local communities. This includes ensuring that local communities receive a fair share of the profits generated from their natural resources.

Furthermore, this research highlights the importance of legal education and awareness for stakeholders in the mining sector. Enhancing this awareness can help reduce the number of legal violations and increase compliance with existing regulations. From the in-depth analysis conducted, it is clear that the integration between tax policy and the management of geological resources requires a stronger and more cohesive framework. The current policies are often fragmented and not comprehensive, thus frequently ineffective in addressing complex issues in the field.¹⁹ Therefore, a holistic approach is needed that not only focuses on fiscal aspects but also simultaneously considers environmental, social, and economic aspects. Furthermore, this research suggests the formation of an independent body tasked with periodically monitoring and evaluating the implementation of mining and taxation policies. This body must be equipped with adequate resources and sufficient authority to intervene when necessary. This will help ensure that all parties, including mining companies and local governments, comply with applicable regulations and operate in a responsible and sustainable manner.

Finally, this research underscores the importance of adaptation and flexibility in legal and taxation policies related to geological resources. With rapid technological changes and global dynamics, rigid and non-

adaptive regulations will quickly become obsolete. Therefore, mechanisms that allow policies to swiftly adapt and respond to current conditions are necessary, ensuring they remain relevant and effective in addressing emerging challenges.

Conclusion

The management of Group C mineral taxes and geological resources in Indonesia faces various challenges, including low tax compliance, inaccurate valuation of sale value, and weak supervision of mining activities. This research suggests the need for revision and updating of regulations, enhancement of supervision capacity, and the application of information technology for more effective management. Additionally, closer cooperation between the central and regional governments is required, as well as the integration of environmental and social aspects into mining policies. These recommendations are expected to assist in creating a more equitable, efficient, and sustainable management of geological resources.

Reference

- Adrian Sutedi, S. H. (2022). *Hukum pertambangan*. Sinar Grafika.
- Bairizki, A. (2020). *Manajemen Sumber Daya Manusia (Tinjauan Strategis Berbasis Kompetensi)-Jilid 1 (Vol. 1)*. Pustaka Aksara.
- Domai, T. (2011). *Sound Governance*. Universitas Brawijaya Press.
- Hasan, H. (2023). Peran Kimia Lingkungan dalam Konservasi Sumber Daya Alam. *Jurnal Ilmiah Multidisiplin Amsir*, 2(1), 243-248.
- Hasibuan, E. S., & SH, M. (2021). *Hukum kepolisian dan criminal policy dalam penegakan hukum*. PT. RajaGrafindo Persada-Rajawali Pers.
- Hasid, H. Z., SE, S., Akhmad Noor, S. E., SE, M., & Kurniawan, E. (2022). *Ekonomi sumber daya alam dalam lensa pembangunan ekonomi*. Cipta

¹⁸ Hasid, H. Z., SE, S., Akhmad Noor, S. E., SE, M., & Kurniawan, E. (2022). *Ekonomi sumber daya alam dalam lensa pembangunan ekonomi*. Cipta Media Nusantara.

¹⁹ Domai, T. (2011). *Sound Governance*. Universitas Brawijaya Press.

- Media Nusantara.
- Ismail, H. (2018). *Ekonomi Politik Pembangunan: Kajian Isu Ekonomi Politik Pembangunan di Indonesia*. Uwais Inspirasi Indonesia.
- Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode Penelitian Hukum*. CV. Gita Lentera.
- Nawi, S. (2014). *Penelitian Hukum Normatif Versus Penelitian Hukum Empiris*. Umitoha Ukhuwah Grafika, Makassar.
- Nurmantu, S. (2003). *Pengantar perpajakan*. Yayasan Obor Indonesia.
- Putra, D. T., Yuwono, T., & Alfirdaus, L. K. (2023). Kebijakan Penanganan Pertambangan Emas Tanpa Izin (PETI) di Kabupaten Bungo. *Ideas: Jurnal Pendidikan, Sosial, dan Budaya*, 9(2), 359-368.
- Salsabila, F. n Risiko Perusahaan Terhadap Penghindaran Pajak Pada Perusahaan Pertambangan (Studi pada sektor Pertambangan yang terdaftar di BEI periode 2018–2022) Setelah mencermati dan memperhatikan penampilan dan (Bachelor's thesis, Fakultas Ekonomi dan Bisnis UIN Jakarta).
- Sinaga, N. A. (2018). Pemungutan pajak dan permasalahannya di Indonesia. *Jurnal Ilmiah Hukum Dirgantara*, 7(1).
- Syahril, M. A. F. (2022). *Dasar-Dasar Hukum Pajak*.
- Syahril, M. A. F., Rifani, R. A., & Khaerul, K. (2023). *Pengantar Hukum Pajak*.
- Thohir, M. S. (2013). *Hukum Pembangunan: Reformasi Perencanaan Pembangunan Nasional Serta Kebijakan Dan Pelayanan Publik*. Deepublish.
- Undang-Undang Nomor 4 Tahun 2009 tentang Pertambangan Mineral dan Batubara.

Conflict of Interest Statement:

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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