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Determination of Advertising Tax in the Event of Determining Tax Payable is Based on the Display of Advertising in Accordance With Regional Regulation of Surabaya City Number 7 of 2023 Concerning Regional Tax

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Abstract: Taxes are a source of state income which is very important for the continuity of government programs and activities. One type of tax that is the object of regional tax is Advertisement Tax, which is imposed on the basis of carrying out advertisements in an area. Advertisement Tax Debt arises as the advertisement is carried out, although tax payments can only be made after the Regional Tax Assessment Letter is issued based on a request from the advertisement operator. If the advertisement organizer does not register the advertisement, the Regional Government can issue a Regional Tax Assessment Letter ex officio to encourage optimization of advertisement tax revenues. Apart from that, advertising must also pay attention to the city planning and existing space to maintain the aesthetics of the city. Regional Regulation Number 5 of 2019 is expected to provide legal certainty and ensure that the implementation of advertising does not conflict with spatial planning. Even though the Advertisement Tax has been paid, the issuance of a permit to operate advertisements cannot be done simply without paying attention to the provisions in regional regulations. As part of efforts to control advertisements and to ensure tax optimization in line with spatial planning provisions, taxes must carry out a regular function through the application of tax disincentives to advertisements that do not comply with existing planning regulations.

Keyword: Advertisement Tax, Advertising Control.

INTRODUCTION

The Ministry of National Development Planning/Bappenas has drafted Law No. 59 of 2024 concerning the National Long-Term Development Plan for 2025-2045 in support of the realization of the Vision of Golden Indonesia 2045, namely the Unitary State of the Republic of Indonesia which is United, Sovereign, Advanced, and Sustainable. Golden Indonesia 2045 is the eternal Vision and Mission of the state as stated in the Preamble to the 1945 Constitution which is further elaborated in the Government's Long-Term Plan. To achieve the state's goals, the government implements various programs to improve the welfare of the community such

as educational funding assistance, free nutritious meals and free health checks. In order for the program to run well and achieve the set state goals, the state needs funds to fund the sustainability of the programs created by the Government.

One of the programs implemented to support the vision of Golden Indonesia 2045 is the implementation of the Free Nutritious Meals program . The government has prepared a fund allocation of Rp. 71 trillion in the 2025 State Budget Plan (R APBN) for the Free Nutritious Meals program . To ensure the success of the program, the Minister of Home Affairs even proposed that the program would also be supported by the Provincial Government and Regency/City Government APBD of Rp 5 trillion. As a form of the Government's seriousness in realizing the Indonesia Emas 2045 development program, the President has also issued Presidential Instruction Number 1 of 2025 concerning Spending Efficiency in the Implementation of the State Budget and Regional Budget 2025. Related to the plan from the Ministry of Home Affairs, several Regional Governments are ready to support the implementation of the Free Nutritious Meals, one of which is the Surabaya City Government which plans to support the Free Nutritious Meals program in Surabaya through the Surabaya City APBD of Rp 1 trillion.

To realize the Government Development program requires funds sourced from Taxes. Taxes are the main source of state revenue. Without taxes, most state activities cannot be carried out. The progress and development of citizens cannot be separated from the awareness of its citizens in paying taxes. Delays in paying taxes and reducing the tax burden have an impact on reducing financial resources which can hamper state development. Tax collection is an essential function, namely a function that is needed for the continuation and survival of the state.

Furthermore, the actions of the regional government in supporting the central government's program as mentioned above are a form of decentralization in the unitary state in Indonesia according to the provisions of Article 18 of the 1945 Constitution. In a unitary state with a decentralized system, regions are given the power to regulate and manage their own affairs. The division of the Unitary State of the Republic of Indonesia into provinces, districts and cities, and the division of government affairs between The government creates a relationship of authority and financial relations. In accordance with the mandate of Article 18A paragraph (2) of the 1945 Constitution of the Republic of Indonesia , financial relations, public services, and the utilization of natural resources and other resources between the Government and Regional Governments are regulated and implemented fairly and harmoniously based on the Law. With the issuance of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, it is hoped that it will provide the Regional Government with the ability to jointly and synergistically with the Government to achieve national development goals in encouraging increased community welfare and sustainable economic growth. The Regional Government with the power granted by the Central Government has the authority to collect regional taxes as a source of regional income.

Advertisement is an object, tool, act, or media whose form and variety are designed for commercial purposes to introduce, encourage, promote, or attract public attention to something. The existence of advertisements in the City of Surabaya must meet the provisions stipulated in the Regional Regulation. Every individual or body that will organize an advertisement in the City of Surabaya must obtain an Advertising Organization Permit from the Mayor of Surabaya in the form of an Advertising Organization Permit or a sign of approval. To support the aesthetics of the city, public safety and security and to arrange advertising points in a good composition so that it is more effective in conveying messages, the implementation of advertising in certain areas is regulated in the provisions concerning Advertising Arrangement which are further regulated in the Surabaya Mayor Regulation . The regulation of the implementation of advertising aims to provide legal certainty for the implementation of

advertising and to organize advertising in the Region so that it is in line with the provisions of spatial planning, aesthetics and environmental sustainability.

Regarding taxes, every display of advertising material is subject to advertising tax. The determination of the time when Advertising Tax is owed is determined at the time the advertising is held and is not based on the issuance of a Permit.

In order to improve compliance with advertising tax payments, the Surabaya City Government has issued Surabaya Mayor Regulation Number 63 of 2023 concerning the Third Amendment to Surabaya Mayor Regulation Number 70 of 2010 concerning the Calculation of Advertising Rental Value, where in Article 10 A paragraph (1) of Mayor Regulation Number 63 of 2023 it is stated that the Mayor has the authority to determine the SKPD no later than 5 (five) years since the advertising tax is due as referred to in the provisions of Article 30 paragraph (2) of Surabaya City Regional Regulation Number 4 of 2011 concerning Regional Taxes. In connection with this, in the event that the advertisement has been displayed but the existence of the advertisement has not obtained a permit from the Surabaya City Government, the Taxpayer has an obligation to pay advertising tax in accordance with the provisions of the applicable laws and regulations, but on the other hand if the existence of the advertisement does not meet the provisions in organizing advertising in accordance with the provisions of the applicable advertising arrangement, then the advertisement cannot be permitted.

METHOD

Type Study

Type study Which used in the script academic This is normative legal research. This type of research is a scientific research procedure to find the truth based on the logic of legal science from its normative side. The logic in normative legal research is built on the basis of scientific discipline and the working methods of normative legal science, namely legal science whose object is the law itself, especially legal regulations as a structured whole of system 20. This type of legal research is prescriptive in nature by examining legal problems from the perspective of positive state law in the system regulation legislation and also in decision the court that has powerful law still, doctrines expert law, And other library materials related to the research object.

Problem Approach

This study uses several approaches with the intention of obtaining the truth of various legal issues that are being questioned to find the answer. The problem approach used in compiling this study is a conceptual approach. And statute approach.

Source of Legal Material

In accordance with characteristic study Which used in this study, the focus of the research is on the study of primary legal materials and secondary legal materials. This research was conducted through a literature study that primarily examines primary legal materials and secondary legal materials. Primary legal materials consist of all relevant and still valid laws and regulations in Indonesia,

Legal Material Collection Procedures

Procedure collection material law in study This carried out using the library research method, namely by using materials primary law and secondary. The legal materials are collected according to the problems to be discussed, which will then be studied in order to find solutions or legal issues being studied.

Legal Material Analysis

The analysis of legal materials in this study uses an analysis that refers to certain problems that are related to legislation and secondary legal materials that are related to legal issues. First, the researcher determines the legal issues that are the main reference in the discussion. Furthermore, from the legal issues the, researcher look for And gather material law primary and secondary legal materials. Furthermore, the legal materials that have been collected are processed by clarifying them based on legal issues. Which used And systematize Then done systematic analysis to reach conclusions.

External Results Study

The output of this research is in the form of a Scientific Journal.

RESULTS AND DISCUSSION

Legal Consequences of Setting Advertising that Has Been Paid for But Does not Meet the Requirements for Issuance of an Advertising Permit.

Advertisements are designed for commercial purposes to promote goods, services, people or organizations. so that the existence of advertisements can be taxed. However, not all advertisements are subject to advertising tax. There are several types of advertisements that are exempt from advertising tax objects in the City of Surabaya, namely:

- a. Organizing advertising via the internet, television, radio, daily newspapers, weekly newspapers, monthly newspapers and the like;
- b. A product label or brand attached to traded goods, which serves to differentiate them from similar products;
- c. Business or profession identification name attached to a building and/or in the area of the business or profession, the type, size, shape and advertising material of which are regulated in the Mayor's Regulation with reference to the provisions governing the business or profession identification name;
- d. Advertising organized by the Central Government, Provincial Government, Regional Government, and/or other regional governments;
- e. Advertising held in the context of political, social and religious activities which are not accompanied by commercial advertising; and
- f. Advertisements containing institutions operating in the fields of education, health and social affairs with the provision that the area of the advertisement does not exceed 4 m² (four square meters) and is displayed on the land/building in question.

The amount of advertising tax is calculated from the multiplication of the advertising tax rate with the tax base of advertising tax. The advertising tax rate in the City of Surabaya is set at a single 25%. The amount of this advertising tax rate is the highest rate allowed to be set in a Regional Regulation. Meanwhile, the determination of the advertising tax base is the rental value of the advertisement, the calculation of which is different between one advertisement and another with the following provisions

1. In the case where advertising is organized by a third party, the rental value of the advertising is determined based on the value of the advertising contract.
2. In the case of advertising being organized independently, the rental value of the advertising is calculated by taking into account factors such as type, materials used, placement location, broadcast time, duration of the event, quantity and size of the advertising media.
3. same factors as in point 2 above.

The rental value of the Advertisement as referred to above is a calculation of the Sales Value of the Advertising Tax Object whose components consist of the Area of the Advertisement Field and the Height of the Advertisement plus the Strategic Value of the Implementation of the Advertisement whose components consist of location, viewing angle and height. The weight, score and mechanism for calculating the rental value of advertisements in the City of Surabaya as the basis for issuing tax debts mentioned in the SKPD are regulated in

Attachment II and Attachment III of the Regulation of the Mayor of Surabaya Number 70 of 2010 concerning the Calculation of the Rental Value of Advertisements and its amendments.

In relation to tax debt, the time when regional tax is owed is when an individual or entity has fulfilled the subjective and objective requirements for a type of tax within 1 (one) certain period of time in the Tax period, in the Tax Year, or part of the Tax Year in accordance with the provisions of laws and regulations regarding Regional taxation. Advertising Tax is one of the Regional Taxes in the City of Surabaya which is collected based on the determination of the Regional Head for the implementation of advertising, but the time when advertising tax is owed is not determined based on the issuance of a Tax Determination Letter by the Region but when advertising is implemented in the City of Surabaya. In the event that the advertisement has been displayed, then advertising debt immediately arises. The determination of advertising tax debt in laws and regulations refers to the material teaching which considers tax debt to arise due to the fulfillment of the provisions required by law. Fulfillment of the provisions in the law is referred to as *tatbestand*, namely a series of conditions, actions and events (whether they are *feitelijk*, *juridical*, *personal* or *zakelijk*) which can give rise to tax debts.

Surabaya City Regional Regulation Number 5 of 2019 as the legal basis for the Implementation of Advertising in the City of Surabaya, distinguishes the types of advertising according to the form and duration of its implementation. For the purposes of registration, the types of advertising organized in the City of Surabaya are divided into 2 (two), namely Incidental Advertising and Permanent Advertising. Incidental advertising consists of billboard advertising, cloth advertising, leaflet advertising, sticky advertising, film advertising, air advertising, sound advertising, floating advertising and demonstration advertising, while permanent advertising consists of board advertising with an area of up to 8 m² (eight square meters), board advertising with an area of more than 8 m² (eight square meters), megatron advertising and walking advertising.

The differentiation of types of advertising regulated in the Surabaya City Regional Regulation has an impact on the form of permits, the period of the provisions for the implementation and the requirements required to obtain an advertising implementation permit. Regarding the type of permit, for incidental advertising in the form of cloth, leaflets and attached, the advertising implementation permit issued is in the form of a sign of approval, while other incidental advertising permits and permanent advertising permits are given in the form of an Advertising Implementation Permit. In addition to the differences in the types of permits, there are also differences in the permit period. For incidental advertising permits, the maximum period given is 30 (thirty) days and cannot be extended, while for permanent advertising permits it has a period of 1 (one) year and can be extended.

The distinction that needs to be considered related to this type of distinction is the requirements and provisions for organizing advertising. Although every advertisement in the City of Surabaya must pay attention to the aesthetics of the city, spatial planning, socio-culture and not conflict with religious norms, politeness, order, security, morality and health, but in terms of requirements related to spatial planning, there are differences related to the registration of incidental and permanent advertisements. The differences between incidental and permanent advertisements in the City of Surabaya can be seen in the following table.

Table of differences between incidental advertising and permanent advertising in the city of Surabaya

No	Substance	Difference	
		Incidental	Permanent
1	Technical Provisions for Advertising Organization	There is no spacing between advertisements	There are regulations regarding the distance between advertisements, for example: For grouped signage advertisements

			outside the fence line, the minimum distance between the signage advertisements is 25 meters from one another.
2	Material	Materials cannot be changed within the specified permit period.	Materials may change within the specified permit period.
3	Form of Permit	Approval Mark for incidental advertising on cloth, leaflets and stickers	Advertising Organization Permit
4	Condition	Administrative requirements include KTP, NPWPD and NIB	Administrative and Technical Requirements such as advertising design and typology and construction calculations signed by the person responsible for the structure who has a certificate from an authorized institution.
5	Space Utilization Permit (Advertising Location Map and PBG)	No need	Required for construction type advertising boards above 8m2 and megatron advertising
6	Advertising Team Technical Considerations	Does not require technical consideration from the advertising team in issuing permits	For permanent billboards over 8 meters and megatron billboards, technical considerations from the advertising team are required when issuing permits.
7	Permit period	30 days and cannot be extended	1 year and can be extended
8	Obligation	Insurance is not required and displaying the identity of the advertising organizer is not required.	It is mandatory to insure advertising objects and show the identity of the advertising organizer on the advertising object.

Based on the comparison table as mentioned above, it can be seen that in the context of granting a permanent advertising permit, it pays close attention to the spatial planning aspect. In fact, specifically to support the aesthetics of the city, public safety and security and to arrange advertising points in a good composition so that they are more effective in conveying messages, the implementation of advertising in certain areas is regulated in the provisions concerning Advertising Arrangement which is further regulated in the Mayor's Regulation. Some of the substances regulated in the regulation on advertising arrangement in the City of Surabaya in the Surabaya Mayor's Regulation Number 70 of 2024 concerning Advertising Implementation and the Surabaya Mayor's Decree Number: 100.3.3.3/208/436.1.2/2024 Regulations on the types of advertising permitted and the distance between advertisements

To avoid the installation of advertisements carelessly which can result in overlapping/dense advertisements that disrupt the aesthetics of the city, the Government can determine the distance between advertisements. For example, in the tight control corridor area such as Jalan Basuki Rahmat Surabaya, the advertisements that are permitted are limited to

advertisements attached to buildings, signage board advertisements and videotron signage advertisements. Outside of these types, advertisements in other forms cannot be held.

The consequence of the arrangement of advertising areas in the city of Surabaya is that not all areas in the city of Surabaya can be used as locations for advertising or the implementation of advertising in a location or road corridor is limited according to the technical provisions for the implementation of advertising regulated in the Mayor's Regulation or the Decree of the Mayor of Surabaya. The prohibition on installing advertising that does not comply with the points regulated in the arrangement of advertising has been emphasized as a norm as stipulated in Article 13 of the Regional Regulation of the City of Surabaya Number 5 of 2019 concerning the Implementation of Advertising which reads as follows:

Article 23

Advertising organizers are prohibited from holding advertisements:

- a. On government land/buildings or other places others to be arranged further in Regulation Mayor;
- b. At points that do not comply with the provisions further regulated advertising arrangements in Mayor's Regulation;
- c. Disrupting the function or damaging facilities and infrastructure city;
- d. With alcoholic beverage/liquor material.

With the existence of a norm prohibiting the arrangement of advertising, it is hoped that there will be control in the implementation of advertising so as not to damage the beauty, aesthetics, security and safety in the city of Surabaya as a result of the implementation of advertising.

With the enactment of the mayoral regulation and the mayoral decree that have regulated the arrangement of advertising in the City of Surabaya, it is not automatic that all applications for advertising permits submitted can be granted. If the advertisement is located in a location that is prohibited from being arranged or the advertisement is not organized in accordance with the provisions, then technically the advertisement application does not meet the requirements for the issuance of a permit.

In the event that advertising has been held but violates regulations related to advertising, there are two legal events that have consequences. The first is that advertising tax has been owed which must be paid by the applicant, while the second event is a violation of the provisions of regional regulations which results in sanctions.

In the event that the advertising organizer does not report the advertising organization activities or intentionally places the advertisement in a position that is not in accordance with the provisions of the arrangement, then the advertising organizer has a legal obligation to pay the tax debt that arises. The Regional Government as the tax authority in terms of Advertising Tax is required to determine the Tax owed according to the rental value of the advertisement. When the Regional Government is aware of an advertisement that is displayed but does not immediately collect the advertising tax that has been displayed, this can be considered an act that is detrimental to state assets because the tax that must be paid is the absolute right of the state to collect. On the one hand, the implementation of advertising that is not in accordance or without a permit can be subject to administrative or criminal sanctions in the form of violations. Although in terms of the threat of sanctions, the weight of the violation of non-compliance with the implementation of advertising is lighter than the weight of criminal acts in the field of taxation, the impact of the implementation of advertising that is not licensed can also cause danger or security to crimes against property and life if the implementation of this advertising causes danger and damage to the community and the environment such as the event of the collapse of the advertisement.

To ensure the compliance of the permit with the tax, the process of determining the Regional Tax Decree which determines the amount of tax debt is carried out after verification or examination of the advertising permit application files. If the application meets the

requirements, the Surabaya City Government through the Regional Revenue Agency issues a Regional Tax Decree as the basis for the applicant to pay Regional Tax which is then followed up with the issuance of an Advertising Organization Permit.

Problems will arise if the advertising organizer does not register the advertisement that is held either due to negligence or intentional. In the event that the Taxpayer does not register the object of advertising tax, the Regional Head or appointed Official can issue an SKPD or other equivalent document for the Tax owed ex officio based on data obtained or owned by the Region. In this case, if the advertisement has been held but does not yet have an Advertising Organization Permit, the Government can issue an SKPD ex officio without waiting for an application from the taxpayer.

The issuance of SKPD by position can also be implemented in the event of tax debts being found for the past 5 (five) years. The Mayor is authorized to determine SKPD no later than 5 (five) years since the advertising tax is owed. The determination of the SKPD in question can use the tax base in the form of the advertising rental value based on the advertising contract value or in the event that the Advertising Taxpayer cannot show or attach an advertising contract and/or is considered unreasonable, the SKPD is determined based on the calculated advertising rental value. The advertising rental value is calculated by considering the type factor, materials used, placement location, broadcast time, period of implementation, number, and size of the advertising media, with a tax period of 12 (twelve) months or less than 12 (twelve) months according to the advertising broadcast period. The imposition or calculation of tax debt as referred to above does not apply if the determination of SKPD is for the relevant tax year or for the implementation of advertising that is still in the relevant tax year and/or tax period. However, in the case where the advertising display period in the previous year is longer than the advertising display period in the current year, the issuance of the SKPD by position can be implemented.

Immediately after the SKPD is issued based on the Taxpayer's request or based on the Position, the Taxpayer must immediately pay the tax owed using the Regional Tax Payment Letter. In the event that the SKPD has been issued and the tax applicant has not made the payment, the Taxpayer may be subject to administrative sanctions in the form of interest of 1% (one percent) per month of the Tax owed that is not or underpaid or deposited, calculated from the payment due date to the payment date, for a maximum period of 24 (twenty four) months and part of the month is calculated as a full 1 (one) month and is billed using the Regional Tax Bill.

For advertising taxes issued ex officio and paid by the Taxpayer, it does not automatically make the issuance of Advertising Organization Permit can be issued automatically. That Advertising Organization Permit is issued based on the application submitted by the applicant and must meet the requirements and provisions stipulated in the Regional Regulation and Mayoral Regulation as well as the arrangements set out in the Mayoral Decree. If the Advertising Organization Permit is issued based on the SKPD that has been paid, then this will have an impact on the validity of the issuance of the Permit. For example, if the requirements for permanent advertising in the form of a board above 8 (meters) square require proof of land ownership where the advertisement stands and there is still a dispute over land ownership above it, then the applicant cannot fulfill the requirements. If the Advertising Organization Permit is issued ignoring the requirements contained in regional regulations and mayoral regulations related to the organization of advertising, then the permit becomes invalid because the permit does not fulfill the substance in accordance with the provisions of existing laws and regulations related to advertising permits in this case violating the provisions of the requirements for the validity of the KTUN as stated in Article 52 of Law Number 30 of 2014 concerning Government Administration.

New Advertising Organization Permits can be issued by the Surabaya City Government in the case of applications and requirements for organizing advertising in accordance with the

provisions in the Regional Regulation. Thus, in the case of SKPDs that have been issued ex officio which occurs due to the negligence and deliberate actions of Taxpayers to register their tax objects, then the taxpayer is required to pay taxes according to the SKPD, but the issuance of permits is issued in accordance with applicable provisions. In the case of a permit application that does not comply with applicable provisions, the taxpayer cannot demand the issuance of a permit based on the SKPD that has been paid.

Even though the applicant has paid tax on advertisements that violate the provisions of Article 23 of Regional Regulation Number 5 of 2019, the implementation of such advertisements cannot be justified. Administrative sanctions may be imposed on such violations in the form of: a. written warning; b. freezing of SIPR; c. sealing of advertising buildings; d. revocation of SIPR; e. Provision cross mark on advertising materials; f. closing on advertising materials; g. Publish in the mass media; and/or h. dismantling of advertisements. In addition to administrative sanctions, violations of the prohibition provisions can be subject to criminal sanctions of imprisonment for a maximum of 3 (three) months or a fine. as much as Rp. 50,000,000,- (fifty million rupiah). rupiah).

Implementation of Budgeter Function and Tax Regular Function in Control of Advertising Implementation in Surabaya City.

Tax is one of the sources of funds for the Government to finance its expenditures, both routine expenditures and development expenditures. In the case of tax as a source of income, the function of tax is budgetary , namely solely to meet budget needs. While on the one hand, tax has a function as a tool to regulate or implement government policies in the economic and social fields (regulatorend), for example: a) High taxes are imposed on alcoholic beverages to reduce alcohol consumption . b) High taxes are imposed on luxury goods to reduce a consumptive lifestyle.

In terms of taxes functioning as a tool to regulate policies, then the tax provisions must be regulated by law. Law is a means that contains values or concepts about justice, truth, social benefits, and so on. In the concept of a welfare state, law is used as an instrument of government intervention in achieving its goals. Law is becoming increasingly important for the state to modify the behavioral structure determined by the market economy pattern. Through law, the government can set goals, determine concrete behavior that individuals may do, and implement its programs. However, in determining which programs the government must run that must be protected by law, subjective considerations play an important role by considering political, economic, social, and religious factors.

To avoid conflicts of interest due to political and economic factors, the law must function to create a peaceful and prosperous state by carefully considering interests and creating a balance between those interests. The goal of achieving peace and prosperity can be realized if the law provides as many fair regulations as possible, namely regulations in which interests are protected in a balanced manner, so that everyone gets as much of what is their share as possible.

In addition to justice, the purpose of law is to realize legal certainty. To realize legal certainty, the government may not issue implementing regulations that are not regulated by law or are contrary to law. According to classical literature, justice and legal certainty cannot be realized at the same time in the same situation. Therefore, law enforcers must be able to make a choice of which must be sacrificed between legal certainty or justice where the reference in this determination is moral.

The implementation of advertising in the city of Surabaya has been regulated in the Regional Regulation which regulates the provisions regarding Tax and Technical Provisions for the Implementation of Advertising. The main objective of regulating the implementation of advertising in the city of Surabaya is to provide legal certainty in the implementation and to arrange advertising in the city of Surabaya in accordance with the provisions of spatial planning, aesthetics and environmental sustainability. That the policy to organize advertising in line with

this spatial planning is evident in the general explanation of Regional Regulation Number 5 of 2019 concerning the Implementation of Advertising which states that the Surabaya City Government strives to ensure that the implementation of advertising can be controlled optimally in order to realize a directed and controlled city spatial planning. This is also reinforced by the issuance of the Mayor's Regulation and the Mayor's Decree which regulate the arrangement of advertising in the city of Surabaya as referred to above.

One form of controlling the implementation of advertising to comply with the spatial planning in the City of Surabaya is the fulfillment of the requirements of the Advertising Location Map and Building Permit before the issuance of the Advertising Permit in the form of a board with an advertising area of more than 8 m² (eight square meters) and megatron advertising using construction . Building Permit (IMB) or currently called Building Approval (PBG) is one of the instruments of spatial control. Building Permit is given for the purpose of arranging buildings in accordance with the city's spatial planning. With the IMB or PBG, the Permit Holder obtains legal certainty when carrying out activities related to buildings, for example buildings are erected in accordance with spatial planning, so that there is no possibility of eviction because it is considered not in accordance with the area plan. In addition, IMB or PBG is also used in order to regulate buildings so that the materials meet standards and their construction does not disrupt the surrounding environment, for example road traffic, does not damage cultural heritage, the construction and materials meet safety standards, and so on.

In addition to granting permits, to anticipate and prevent violations of advertising control related to spatial planning as in the case above, the Law gives authority to regional governments to carry out spatial planning control in the form of Incentives and Disincentives. The provision of Incentives is intended as an effort to provide rewards for the implementation of activities that are in line with spatial planning, both those carried out by the community and by the regional government. The forms of Incentives, among others, can be in the form of tax relief, development of infrastructure and facilities, compensation, ease of licensing procedures, and awards. Meanwhile, Disincentives are intended as a tool to prevent, limit growth, and/or reduce activities that are not in line with spatial planning, which among others can be in the form of high taxation, restrictions on the provision of infrastructure and facilities, and the imposition of compensation and penalties. With the provision of incentives and disincentives as an effort to control spatial planning, taxes can play their function as a tool to regulate or implement government policies in the economic and social fields that can realize the goals that the Regional Government wants to achieve regarding spatial planning without having to conflict with its function as a source of income to meet state expenditure needs.

In order to be in line with the objectives of spatial planning regulated in Regional Regulations, both Regional Regulations and Mayoral Regulations related to advertising arrangements, there should be Tax Regulations that regulate the implementation of the provision of Incentives and Disincentives. The provision of Incentives and Disincentives in advertising tax cannot be implemented in determining the amount of advertising rates considering that in the City of Surabaya the advertising tax rate in the City of Surabaya is single, namely 25% and is already the highest tariff permitted to be collected based on laws and regulations. The regulation of Incentives and Disincentives related to the relief or imposition of high taxes is only possible in determining the amount of the Taxable Base, namely the Advertising Rental Value.

The Advertising Rental Value regulated in Surabaya Mayor Regulation Number 70 of 2010 and its amendments has actually attempted to regulate the arrangement of advertising in accordance with spatial planning. This can be seen from the strategic value components of advertising implementation which include: a. land use; b. size of advertising; c. Viewpoint; d. road class; e. price of advertising installation point/location. That these components are given varying weights with greater weights on the more dominant components.

For example, the components of the viewpoint and road class. The viewpoint of the advertisement as referred to in Article 4 paragraph (1) letter c of the Regulation The rental value of the advertisement is differentiated based on how easy it is to see the advertisement point which can be determined from five-way intersections, four-way intersections, two-way roads and one-way roads. The assessment weight of the viewpoint is differentiated and divided into : > 4 directions, 4 directions, 3 directions, 2 directions, 1 direction, indoor, walking, megatron and Pedestrian Bridge (JPO) or road bando. If the advertisement has a viewpoint > 4 then the score weight value is greater (value 10) than the advertisement located at a location with a viewpoint of 4 (value 8). Meanwhile, the road class as referred to in Article 4 paragraph (1) letter d can be differentiated based on the width of the road and grouped into interval classes stated in Attachment I of the Mayor's Regulation. In the case of advertising being run on class I road group, the weight is 10 times greater compared to advertising held indoors, the score of which is 1. The more strategic the point of the advertising implementation, the greater the strategic value component of the advertising implementation, which has an impact on the increasing calculation of the advertising rental value, which ultimately affects the amount of tax payable that must be paid for advertising tax.

That the implementation of tax disincentives on advertising rental values in the City of Surabaya has been regulated in the Surabaya Mayor Regulation regarding Advertising Rental Values. The disincentives given are the addition of the amount of advertising rental value for the display of cigarette materials and the height of the advertisement. In the case of cigarette materials, the amount of advertising rental value is increased by 25% (twenty five percent) of the principal value of the advertisement rental set. Then related to the height of the advertisement, each additional height up to the first 15 m (fifteen meters) and multiples thereof, the amount of the Advertising Rental Value is increased by 20% (twenty percent). In the event that the Government wants to regulate the arrangement of advertisements to be in accordance with spatial planning, then the regulation regarding the advertising rental value is something that can be made possible in the implementation of Tax Incentives and Disincentives.

As a result of the increasingly strict advertising arrangement with the formation of tight control areas, medium control areas and outside areas in the implementation of advertising in the City of Surabaya and the determination of the distance and type of advertising that can be implemented in these areas as stipulated in the Regulation of the Mayor of Surabaya Number 70 of 2024 concerning the Implementation of Advertising, the components of the weight and score for calculating advertising tax regulated in the Regulation of the Mayor of Surabaya Number 70 of 2010 should be changed or adjusted. This is done so that there is no more advertising implementation that is deliberately carried out in violation of spatial planning. In the event that the implementation of advertising violates the technical provisions in the arrangement of advertising contained in the Mayor's Regulation and the Mayor's Decree concerning the arrangement of advertising, it should be given a greater weight that is equivalent in value to the imposition of a fine to provide a deterrent effect. As a suggestion for improving the preparation of mayoral regulations for advertising rental values, if there is an advertisement implementation whose distance does not comply with the provisions in the arrangement of tight control corridor areas, a greater weight can be given so that the tax paid will be greater than the advertising taxpayer who erects an advertisement that complies with the provisions of advertising implementation in the same area. The imposition of an unbalanced tax between those who violate and those who do not violate is expected to have an impact on changing the behavior of advertising tax subjects.

To realize the purpose of the formation of legislation, law enforcement is needed against violations that occur so that. Law enforcement is an effort to realize the ideas in the Law into reality. Law enforcement is an activity to harmonize the relationship of values outlined in the rules/views of solid values and manifest attitudes and actions as a series of final stage value descriptions to create (as "social engineering"), maintain and defend (as "social control") peace

in social life. Providing justice in a case means deciding the case by applying the law and finding the law in concreto in maintaining and guaranteeing compliance with material law by using the methods determined by formal law.

Soerjono Soekanto in his book entitled Law Enforcement states that in order for the law to function properly, harmony is needed in the relationship between four factors, namely: 1. The law or regulation itself; 2. The mentality of law enforcement officers; 3. Facilities expected to support the implementation of the law; and 4. Legal awareness, legal compliance and behavior of community members.

Sanctions are the core of the implementation of state administrative law and are needed to ensure the enforcement of state administrative law. According to Philipus M. Hadjon, in general it is useless to include obligations and prohibitions for citizens in laws and regulations when the rules of behavior cannot be enforced by the state. One of the instruments to enforce this citizen behavior is sanctions.

JJ Oostenbrink stated that administrative sanctions are sanctions that arise from the relationship between the government and citizens and are implemented without the intermediary of a third party, namely without the intermediary of judicial power, but can be directly implemented by the administration itself. Sanctions in state administrative law are given as a reaction to non-compliance with the obligations contained in the norms of state administrative law.

Judging from the targets, there are 3 (three) types of sanctions, namely:

- a. Reparatory sanctions: sanctions applied as a reaction to violations of norms, which are intended to restore the original condition or place in a situation that is in accordance with the law. Examples of these sanctions are government coercion (*bestuurdwang*) and the imposition of forced money (*dwangsom*);
- b. Punitive sanctions: sanctions that are solely intended to punish someone. An example of this sanction is the imposition of an administrative fine (*bestuursboete*);
- c. Regressive sanctions: sanctions applied as a reaction to non-compliance with the provisions contained in the issued decision. Examples of these sanctions are the withdrawal, change and postponement of a decision.

In the event of a violation of the prohibition on holding advertising as regulated in Article 23 of Regional Regulation Number 5 of 2019, the imposition of administrative sanctions as regulated in Article 25 paragraph (2) of Surabaya City Regional Regulation Number 5 of 2019, according to the target of the sanctions, is divided into 2 (two), namely:

- a. Prohibition in the form of: Written warning, sealing of advertising buildings, marking with a cross on advertising materials, covering advertising materials, publishing in mass media and/or dismantling advertising.
- b. Withdrawal, change and postponement of decisions in the form of: freezing of SIPR and revocation of SIPR.

In the case of advertisements displayed and business actors do not register advertisements as tax objects, the Government can issue SKPDs *ex officio* without an applicant's request. In the case of SKPDs having been issued and the applicant has not made payment, administrative sanctions can be imposed on taxpayers who are in arrears in paying taxes in the form of interest, fines or increases stated in the tax assessment letter.

In order for the enforcement of tax obligations to be in line with the enforcement of advertising laws related to spatial planning, then for advertisements that have been issued by SKPD because their positions and existence do not comply with the arrangement of advertisements regulated in the Surabaya mayoral regulation, then the tax collection should be in accordance with the broadcast period that has been carried out until the period of discovery of the violation/examination time. In the case of taxes being collected only for the tax period/tax year that has been broadcast, then for the next step, government coercive sanctions will be carried out starting from warnings to dismantling advertisements that have been held without

permission. Without the imposition of strict sanctions, it is in vain that legal regulations are made which have an effect on the loss of public trust in the government.

CONCLUSION

Based on explanation issue law as meant on Chapter II, the following conclusions were obtained:

A. Advertising tax debt occurs when the advertising subject has carried out the advertising. The advertisement must be registered by the advertising organizer to be registered as an advertising tax object along with the processing of the advertising organization permit so that a Regional Tax Determination Letter can be determined as a basis for the advertising organizer to make tax payments which are then followed up with the issuance of an Advertising Organization Permit by the Regional Government. In the case that the advertisement has been organized but the advertising organizer does not register the advertising object either intentionally or through negligence, a Tax Determination Letter can be issued ex officio.

In the event that the Regional Government issues a Regional Tax Determination Letter ex officio for advertisements that have been displayed, the Taxpayer is obliged to pay advertising tax. For the payment of advertising tax made based on the issuance of a Regional Tax Determination Letter ex officio, the Regional Government does not automatically issue an Advertising Organization Permit. In the event that the advertising object that is organized violates the provisions of the technical requirements for organizing advertising and the provisions for organizing advertising in the City of Surabaya, the Advertising Organization Permit cannot be issued and is a violation. Violations of the organization of advertising may be subject to administrative sanctions and criminal sanctions.

B. Taxes have a regulatory function to achieve a certain goal related to economic and social policies. To achieve the expected goals, tax provisions must be regulated by law. The purpose of issuing Surabaya City Regional Regulation Number 5 of 2019 concerning the Implementation of Advertising is to provide legal certainty regarding the implementation of advertising that is in line with spatial planning in Surabaya City. Based on this objective, the function of tax does not rely solely on the implementation of the budgetary function by collecting taxes on advertising that has been implemented but does not pay attention to spatial planning. The function of tax must be in line with the objectives contained in the Regional Regulation that regulates the implementation of advertising.

One effort that can be made so that the tax function can run simultaneously is by regulating tax disincentives for advertisements that are held without considering the provisions of the arrangement of advertisements. The disincentive is carried out through differentiating the weight/index of the calculation of the rental value components of the advertisement which is the basis for calculating the tax. In addition to the implementation of Disincentives, law enforcement by means of providing administrative sanctions related to the implementation of advertisements must also be enforced to realize the predetermined legal objectives.

Government coercion (*Bestuurdwang*) against the existence of advertisements that violate and are not licensed must be carried out by the Regional Government. In line with this, the determination of SKPD by position against advertisement violations should be carried out wisely, namely by collecting tax payments only until the violation is found, so that social problems related to the implementation of advertisements do not arise and administrative law enforcement can run smoothly.

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