

Conference Paper

Politic of Taxation to Promote National Competitiveness of Shipping Industry in Indonesia: Quo Vadis

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Abstract

Shipping industries are important pillars to develop Indonesia into a global maritime axis. However, the current tax policies formulated by the government for shipping industry show lack of support to the national shipping companies. The formulated policies tend to benefit international shipping companies more than national shipping companies. Some of these policies are among others: a) no VAT levies for use of containers by international shipping companies, b) non-equal VAT treatment on port services, and c) presumptive scheduler taxation rates based on old Income Tax regime which has relatively high income tax rates.

The main objective of this research is to evaluate tax policy on the shipping industries in Indonesia. In addition, this research also does a comparative analysis aiming to increase the productivity of national shipping companies – using South Korea tax policy as a comparison. The final goal of this research is to provide a policy outline for the government in formulating or reconstructing tax policies aimed to develop national shipping industry.

State of the art of this research is to make the taxation politic as a new paradigm in analyzing problems. The benefit of this paradigm is in its ability to dissect the root causes on taxation substantial aspects, because actually a policy is a political product. The analysis results show absence of political platform (which should be clear and unequivocal) in the current taxation policies on shipping industry – which tend to be reactively constructed, is not supportive to the development of, or even in some instances discriminatory against, national shipping industries.

It is recommended that the government immediately formulate the politic of taxation which is favoring national shipping industry. And, distorting taxation policy need to be revised in order not to impede competitiveness in the shipping industry.

Keywords: shipping, maritime, tax policy, value added tax, national competitiveness

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1. Introduction

Until now, marine transportation (shipping) is still the main focus in international trade traffic. Almost 90% of all international trade is carried by sea. Therefore, shipping service is crucial over time. The role of shipping service is strategic as President Joko Widodo proclaimed his goal to develop Indonesia into a global maritime axis. However the vision will not be realized if the existing regulation does not support shipping industry.

One of tax regulations that affect productivity of shipping industry is the Value Added Tax (VAT). VAT has indirect legal character, which means the burden of taxation is redirected to the third party, namely consumer (Rosdiana, Irianto & Putranti, 2013). Other than VAT, another tax regulation that also affect the productivity of shipping industry both in the short term and long term is Income Tax. In the short term, excessive prepaid on withholding tax will affect company's cash flow in the running year. Therefore, tax policy analysis should be performed to evaluate whether current taxation policies support the growth of shipping industry in Indonesia. Evaluation report in turns can help the stakeholder to map policies which need to be reconstructed. The implementation of tax policies should also be evaluated to see how well they have influenced social, economic and political issues aligned with sabotage principle.

Through the Presidential Instruction No. 5/ 2005 about the Empowerment of National Shipping Industry, Indonesia has started to apply sabotage principle. Moreover, the issue of Law No.17/ 2008 about Voyages (Voyage Act) has increasingly widened the scope of shipping industry.

Presidential Instruction No. 5/ 2005 notifies the stakeholder to consistently implement sabotage principle in formulating policies related to shipping industry. Sabotage principle aims to protect national shipping industry. It requires all domestic commodities shipped through Indonesian territory to be loaded by domestic vessel. The implementation of sabotage principle shows that shipping activity as an essential part of state sovereign. The implementation of sabotage principle is also intended to encourage national and international businessmen to register their shipping company and to invest in Indonesia.

In relation with tax policy, Presidential Instruction No. 5/ 2005 suggests stakeholders to:

1. Reorganize current procedures on tax facilities given to national shipping industries in accordance with taxation terms;

2. Enhance tax policies which support the growth and development of national shipping industries, include in incentives to exporters who utilize Indonesian-flagged vessels or those operated by national shipping company;
3. Firmly implement penalty toward national shipping and anchorage companies which already get incentives, but then change their investment outside the business field.

Based on the above background, this study is aimed to map taxation policy which does not support national shipping industry. Secondly, this study evaluates taxation policies which need reconstruction.

This study is a comprehensive tax research on shipping industry using state of the art theory on tax incentives. Practically, this research is useful as recommendation for the government in composes and implements related policy.

2. Research Methods

In accordance with its purpose, this research is performed using constructivism paradigm to understand the implementation of taxation policy and to redefine social reality (empirical fact). Data of this research are collected through literature study, documentation study and focused group discussion (FGD). The data are gathered continuously since mid-2011 until the end of 2015.

3. Result and Discussion

3.1. Politic of value added tax on shipping and anchorage services

Based on Article 1 (1) of Act No. 17/ 2008 on Voyage, voyage means a unified system that consists of marine transportation, anchorage, marine safety and security as well as maritime environmental protection. According to Article 6 of Voyage Act, water transportation consists of sea transportation, river and lake transportation, and ferry transportation. To support water transportation activities, it is permitted to operate private business on (Article 31 of Voyage Act):

- a. cargo loading and discharging service;
- b. transportation processing service;
- c. shipping;

- d. equipment rental service related with water transportation;
- e. independent pilot service;
- f. container service;
- g. ship management;
- h. ship broker;
- i. ship manning agency;
- j. shipping agency; and
- k. Ship repairing and maintenance.

In relation with Voyage Act, the implementation of Value Added Tax is familiar with two terminologies, namely shipping and anchorage services. Anchorage service, according to Article 1 (14) on Voyage Act means all things related to the implementation of port function to support continuity, security and order of ships traffic, to manage passenger and/or goods flow, to promote safety and security of intra or intermovement of transportation type, and to encourage national as well as local economy as considering regional landscape.

Import activities in a customs area cannot be separated from the load and discharge services at the port, where imported commodities are discharged from vessel and then transported by land to the company's warehouse before being processed in accordance with the kind of business, the importer runs. In the load and discharge activity, the receiver gives certain amount of fee toward the service provider. This kind of delivery service is potential to impose Value Added Tax (VAT).

In this kind of service, tax levy should emphasize on the principle of not causing distortion toward the economy. However, in the process of delivering imported commodities, the main focus is not on how goods are discharged from the vessel. Yet, the essence is on transport efficiency and packaging quality that guarantee commodities to arrive safely in the destination country.

Shipping vessels are significant in global trade. One which is no-less important as an integral part of international trade activities is anchorage service. Port services include:

1. Docking service,
2. Pilot service;
3. Tug boat service;

4. Ship moorings (tether) service;
5. Handling service, which include in;
 - a. Quay service for container;
 - b. Handling service at Container Terminal; and
 - c. Container pile up service.

Indonesian government encourages national shipping business to develop. Therefore, benefit is given to national shipping companies in term of tax levy. The regulation manages to reduce anchorage cost at ports which eventually will improve ability of national shipping companies to compete in global market. Taxation facility may improve competitiveness of Indonesian export products.

From 1986 to 2003, Indonesian government has implemented Value Added Tax (VAT) regulation which benefit anchorage services, especially those used by international shipping line. The previllage given was basically in form of VAT Exemption. The facility is based on:

1. global prevalence to exclude international shipping services from Value Added Tax;
2. integral relationship of anchorage and shipping services exempted from Value Added Tax; and
3. Reciprocity shipping principle between Indonesian government and other countries through bilateral agreement.

Based on Presidential Decree No.18/ 1986 which changed into Presidential Decree No. 37/ 1998, and then modified again into Presidential Decree No. 204/ 1998 about **Government Covered VAT**, handover of Taxable Service received by Commercial Shipping Companies include in:

- a. vessel leasing and rental service;
- b. anchorage services, include in tug boat service, pilot service, docking service and tethering service; and
- c. Maintenance/ repair service.

In 1990, the Minister of Finance decided to **exclude VAT imposition** on all anchorage services used by international and national shipping companies in Indonesia marine

territory. The policy is implemented through letters issued by Director General of Taxation No. SE - 17/ PJ.5.1/ 1990. This policy was informed by the Minister of Finance to the Director General of the Commission of the European Communities. Letter S-995/MK.04/1990 issued on August 20, 1990 informed that VAT Exception was given to all anchorage services for international shipping line without distinguishing the origin country.

Director General of Taxation through Letter No. SE-08/PJ.532/1999 asserts that **VAT Exemption** was given to anchorage services. Detail on the facility was outlined in the explanation section of the next.

Twenty-seven countries, as listed below, also implement **VAT Exemption** on Indonesian shipping companies which utilize anchorage services in their area. They are:

1. Australia;
2. Netherlands;
3. Belgium;
4. Brunei Darussalam;
5. Denmark;
6. Hong Kong;
7. India;
8. Britain;
9. Italy;
10. Japan;
11. Germany;
12. Korea;
13. Malaysia/Sabah/Serawak
14. Egypt;
15. Norway;
16. Papua New Guinea;
17. France;
18. Philippines;

- 19. Poland;
- 20. R.R.C.;
- 21. Singapore;
- 22. Spain;
- 23. Srilanka;
- 24. Sweden;
- 25. Taiwan;
- 26. Thailand;
- 27. U.S.A.

Government Regulation No. 146/ 2000 informed a change in VAT facility. **VAT Exemption** facility was given to Taxable Service used by national commercial shipping companies and national fishing companies. The Taxable Services exempted from VAT levy includes:

- a. vessel leasing and rental service;
- b. anchorage services, include in tug boat service, pilot service, docking service and tethering service; and
- c. Vessel maintenance/ repairing services.

Since the approval of Law No. 42/ 2009 on the third change of Law No.8/ 1983 about VAT over goods and services, as well as Sales Tax on Luxurious Goods, VAT regulation on anchorage service has changed. VAT facility is no longer given as it was implemented by previous regime. At present, in line with the goal to develop Indonesia into a global maritime axis, the government launched new policies on VAT as follows:

TABLE 1: Terms of VAT Facility over Anchorage Service.

Non Collected VAT	VAT Exemption
Government Regulation of Republic of Indonesia No.69/ 2015 about limports and Spacific Transportation Instrument Delivery and Taxable Service Delivery on Specific Transportation Instrumentof Non Collected Value Added Tax	Government Regulation of the Republic of Indonesia No. 74/ 2015 about the Treatment of Value Added Tax on Spacific Anchorage Delivery Services to Shipping Companies which Carry out Abroad Shipping Activities
Article 3	Article 2

Non Collected VAT	VAT Exemption
Taxable Service on Specific Transportation Instrument of which handling VAT is not collected, include in:	1) The handover of certain anchorage service by State-Owned Ports Agency to shipping company which conducts Abroad Shipping activities is exempted from Value Added Tax imposition.
Services used by national commercial shipping companies, national fishing company, service provider company and river, lake, and national crossing that covers:	2) Value Added Tax Exemption as mentioned in Paragraph (1) is given with terms as follows:
1. Vessel renting services;	a. to vessels operated by national shipping companies which conduct abroad shipping must meet the condition of not carrying passengers and/or goods from one port to the other port in the region of Indonesia
2. anchory services include in tug boat service, pilot service, docking service and tethering service; and	b. to vessels operated by international shipping companies which conducts shipping activities in the region of Indonesia must meet following requirements:
3. vessel maintenance and repair service.	1) The vessel do not carry passengers and/or goods from one port to the other ports in the region of Indonesia;
	2) The origin country of the international shipping company must provide the same treatment to Indonesian vessels based on mutual principle;
	3) Anchorage Services which is exempted form VAT as mentioned in paragraph (1) are vessel services and goods services provided by State-Owned Ports to shipping companies which conduct Abroad Shipping activities, are:
	- Vessel services, such as docking service, pilot service, tug boat service, and tehtering service;
	- Goods services, means container discharge services from the vessel to the accumulation field and/or from the accumulation field to the vessel.
	4) Indebted Value Added Tax Exemption over the handover of specific anchorage services as mentioned in paragraph (1) does not require Exemption Certificate of Value Added Tax.
	5) Input VAT paid on Taxable Goods or Taxable Services acquisition from the State-Owned Ports regarding the delivery of certain anchorage service are exempted from Value Added Tax levy as mentioned in paragraph (1) cannot credited.
Regulation of the Minister of Finance Republic of Indonesia No. 193/PMK.03/2015 about Procedures on Non Collected Value Added Tax Facility on Imports and/or Delivery of Specific Transportation Instrument and Delivery of Taxable Services related to Specific Transportation Instrument	
Article 5	

Non Collected VAT	VAT Exemption
Taxable Service on specific transportation instrument which in delivery VAT is not collected include in:	
services used by national commercial shipping companies, national fishing company, service provider company and river, lake, and national crossing that covers:	
1. Vessel renting service;	
2. anchory services include in tug boat service, pilot service, docking service and tethering service; and	
3. vessel maintenance and repair services.	

From the table above it can be seen that:

1. Non Collected VAT over anchorage services (GR No.69/ 2015) was implemented universally, for both national and international shipping, but limited only to tug boat service, pilot service, docking service, and tethering service. Even though the load and discharge service, port handling service and container pile up service should also get Non Collected VAT facility. The partial policy will cause compliance costs, because:
 - a. Businessman must create two kinds of Tax Invoice since both invoices have different VAT treatment. Regulation makers should pay attention and implement clarity principles before enforcing certain universal regulation. Compliance cost is not merely the amount of direct money cost, but also intangible cost (for example time cost).
 - b. Non Collected VAT will also add the burden of taxpayers because they have to pay heavy cost of taxation which potentially cause Overpayment. Even though it is the right of Taxpayers, overpayments will have impact on huge administrative cost. It is because Taxpayers have to change the form of their obligation implementation into VAT restitution.
2. VAT Exemption facility over anchorage services (GR 74/2015) provided by State-Owned Ports to shipping companies which conduct Abroad Shipping activities, is comprehensive enough because this facility includes:
 - a. Anchorage services, such as docking service, pilot service, tug boat service, and tethering service; as well as
 - b. Goods handling services, such as container discharge service from the vessel to the accumulation field and/or loading service from the accumulation field to the vessel.

In addition, VAT Exemption policy is considered fair enough because the facility is given not only to vessels operated by International Shipping Companies, but also to National Shipping Companies. However, VAT Exemption policy has some weakness, such as:

- a. VAT Exemption policy is less in accordance with the neutrality principle of VAT because in reality, the facility is given only to only International Shipping Companies and not to National Shipping Companies as well. Even GR No.74/ 2015 limit the imposition of VAT Exemption as follows: "vessel operated by the National Shipping Companies must meet the conditions of not carry passengers and/or goods from one port to another in the region of Indonesia."
- b. VAT Exemption policy does not support sea connectivity and transportation productivity in Indonesia.

Based on Logistic Performance Index 2014 issued by the World Bank, Indonesia ranks to 53 from 160 countries. Until now, logistics cost in Indonesia is expensive due to inefficiency in goods distribution. There are three factors that cause logistic transportation system in Indonesia is left behind other neighboring countries. The factors are customs, infrastructure and delivery. Other factors that make high logistics cost is inadequate port infrastructure, inexistence of well-connected mass transportation, inexistence of national logistics technology system, permission problems, and inefficient loading and discharging activity. (Menyongsong Harapan Baru, Retrieved from <https://maritimeneews.id/menyongsong-harapanbaru/>) VAT imposed on port services utilized by National Sea Transportation Companies of course will increase the cost borne by the buyer.

- c. VAT Exemption policy is less in accordance with the government efforts to reduce economic cost because VAT remains imposed on national goods transportation. In order to create competitive capability among domestic business players, tax terms should not cause distortion.

3.2. The politic of value added tax on refined fuel oil

Refined fuel oil remains the highest cost that a shipping company bears. VAT over fuel is regulated in the Government Regulation No.15/ 2015 about Value Added Tax Treatment on the Handover of Refined Fuel Oil to Vessels of International Shipping Companies. In the Article 2 of GR No.15/ 2015, it is mentioned that:

1. On the handover of refined fuel oil to foreign vessel operated International Shipping Companies; Non Collected Value Added Tax facility is given.
2. Refined fuel oil as mentioned in Article (1) is a type of Marine Fuel Oil (MFO) 380 and Marine Gas Oil (MGO) in accordance with ISO 8217 specifications and/or specification determined by the minister who manage government affairs in the field of oil and gas.

Government Regulation GR No.15/ 2015 provides limitation or condition over Non Collected VAT. It is mentioned that this facility given only to the taxpayer who handover refined fuel oil to International Forwarding Company vessel with inland processing facilities and storage for refined fuel oil products.

Non Collected VAT on refined fuel oil shipping represents a progress in government's effort to synchronize national policy with international best practice. However, this policy has some weakness or limitation, for example:

- a. Non Collected VAT opposes neutrality principle of Value Added Tax (VAT) because facilities only given to International Shipping Companies (not to National Shipping Companies)

Fiscal neutrality means no discrimination; taxation system in a country must provide equal treatment to the resident as well as to the non-resident. It is to create a fair level playing field for both. Generally, non-discriminating concept is used to define tax obligations of a resident. Masons and Knoll (2012; 20) describe that non-discriminating principles must at least applied in the following circumstances: location neutrality; neutrality of investment locations that minimise the distortion of where one should invest, (ii) leisure neutrality, minimise the distortion of how much work should be done, and (iii) competitive neutrality, provide certainty that all residents in a jurisdiction are treated equal in terms of tax obligation, therefore, it does not become determinant of competitive advantage.

- b. Does not support inter-archipelago connectivity and national transportation productivity

All regulation should in line with government's Sea Connectivity program proposed by President Jokowi. It takes hardwork to connect Indonesian regions by land and sea. In previous studies, such as Pendulum Nusantara, Sea Connectivity is vital in driving the national economic growth. If Non Collected VAT is given also to vessels owned by national business which operate in Indonesian; of course this will reduce operational cost.

- c. Incorrelative with government efforts to reduce high economic cost because VAT remains imposed on national freight.

To provoke competitive capabilities of inland business players, tax regulation should not cause distortion.

Easson and Zolt designed the theory of tax incentives to include: (i) revenue costs, (ii) resource allocation costs, (iii) enforcement and compliance costs, and (iv) costs associated with the corruption and lack of transparency. The current Value Added Tax (VAT) policy associated with shipping industry seems to neglect tax incentive as initiated by Easson and Zolt. Even though, tax incentive should mainly aim to encourage changes in tax obedience, which at last can raise Indonesian leverage internationally. Tax incentive policy should also be accommodated through specific laws of taxation, so that it can easily be implemented by Directorate General of Taxation as the executing institution. Therefore, in implementing tax incentives, it is important to note the terms and condition, as well as the administration process.

Advantage of tax incentive for the state should be clear, concrete and able to be renewed periodically. Therefore, there must be a cost and benefit analysis on the financial, economic and social development aspects. Tax incentive should also influence the administrative implementation. Therefore, Tax Return (SPT) should also adjusted in order to accommodate the tax incentive. Current rules of taxation do not clearly inform the type and procedure for incentives filing.

4. Conclusion

Even though the current taxation policy on shipping industry is considered better than the previous one, it tends to support international shipping industries more than the local one. Besides the current taxation policies on shipping industry does not create multiplier effect on the inland economy. Discriminative taxation policies also disturb the government's efforts to boost national productivity, for example by reducing economic cost. Politically, disinclination for national shipping industries potentially develops disharmony between the state and the people. Disharmony occurs because there is distrust among people who believe tax incentive regulation does not take their side, or support national shipping productivity. Therefore, the government need to immediately reconstruct incentive policy which benefit national shipping industries.

The new taxation facility should be neutral and affordable. It should also encourage national shipping productivity and relatively has low tax incentive cost.