A Review of Tobacco Tax Policies in Indonesia
Tax Centre of the Faculty of Administrative Sciences, University of Indonesia (Tax Center FIA UI) is an independent educational, training and research institution that supports academic activities with a main focus on research/academic studies and community service in the fields of taxation (central and regional taxes), customs and excise.
## Agenda

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<th>Time</th>
<th>Activity</th>
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<tr>
<td>08.00 – 08.30</td>
<td>Registration</td>
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<tr>
<td>08.30 – 09.00</td>
<td>Opening &amp; Greeting</td>
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<tr>
<td>09.00 – 10.00</td>
<td>Presentation Research Team of Tobacco Tax</td>
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<td>10.00 – 11.00</td>
<td>Presentation from MoF Team</td>
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<td>11.00 – 11.00</td>
<td>Q&amp;A and Closing</td>
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<td>12.00 – 13.00</td>
<td>Lunch</td>
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Research Team – Tax Centre
- Prof. Dr. Gunadi, M.Sc., Ak.
- Prof. Muhammad Handry Imansyah, MAM., Ph.D.
- Dr. Titi Muswati Putranti, M.Si
- Andreas Adoe, SE., LLM
- Maria R.U.D. Tambunan, S.I.A, MGE

Assistance:
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Contributions

Thank you to:

Central Government:
• Ministry of Health, Agriculture and Trade

Regional Government:
• Local Government of Capital City of Jakarta, East Java, Central Java
• Regional Tax Office in Jakarta, Semarang, Temanggung, Surabaya, Manado

Participants of focus group discussion and interview with:
• representatives from Parliament, the Ministries of Finance, Health, Agriculture, Trade, and Industry; Academics (Lecturers, Students and Researchers), Cigarette Industry Association; Tobacco Farmers Association; and World Health Organization.
Methodology

• Time Periode: October 2017 to December 2018
• Site Research
  • Jakarta Capital City of Jakarta, East Java, Central Java
  • Regional Tax Office in Jakarta, Semarang, Temanggung, Surabaya, Manado

Data Collection based on:
• Literature reviews of multiple government and industry documents,
• Observation
• in-depth interviews,
• focus groups discussion
• UIC Think Tank Partners Meeting on 18 September 2018
• Discussion ‘Health taxes to help attain the SDGs’ at 2018 Annual Meetings of the International Monetary Fund and World Bank Group 10 October 2018 Nusa Dua, Bali, Indonesia

Disemination
• Draf Report present at The 12th Asia Pacific Conference On Tobacco Or Health (APACT) in Bali, Indonesia on 13 - 15 September 2018.
• Seminar- Final Report on Tobacco Tax on 20 August 2019 Mercure Hotel Jakarta

Output: Final Report and Journal International
Structure and Evaluation of Tobacco Tax Policy in Indonesia

A. Tobacco Tax Structure
B. Road Map for Tobacco Taxes
C. Taxes Based on Product Classifications in Excise
D. Value Added Taxes (VAT) on Tobacco
E. Local Cigarette Taxes and Earmarking
F. Income Tax and Tax Avoidance
The Indonesian government sets the road map for revenue targets from tobacco excise taxes.

The government collected about 10%-12% of total revenue from excise taxes for the last five years as reported by Directorate General of Excise (DGE) in 2017.

The disease burden and mortality rate will continue to increase over the upcoming decades at current consumption levels which is used to calculate the cost tobacco use such as tobacco-related diseases such as death, disability, lost productivity, etc.) compared to the macroeconomic contributions of the tobacco industry.

The government’s policy to control the consumption of tobacco consists of excise levied by central government and cigarette taxes collected by provincial governments.
Tobacco and tobacco related industries provide employment through both farming and manufacturing and generate taxes that provide revenues for the government.

Tobacco also results in morbidity and mortality, which can result in economic losses for individuals, families, employers and the government.

The Indonesian tobacco industry is dominated by a few-large scale industries that have been partly taken by multinational tobacco companies.
Role of Tobacco in Economy

- Tobacco Farming
- Tobacco Manufacturing
- Tobacco Consumption
- Tobacco Mortality & Morbidity
Tobacco Farming

• There are an estimated 568,906 tobacco farmers in Indonesia. An additional 9,939 Indonesians are involved in tobacco farming but are employed off the farm. Tobacco manufacturing employs another 667,576 people.

• Tobacco farming is a relatively small agricultural sub-sector in Indonesia, accounting for approximately 0.3% of the agricultural sector and 0.03% of gross domestic product. In 2016, it is estimated that less than one-fifth (30,000 tons) of tobacco leaf was exported. However, Indonesia has consistently been a net importer of tobacco leaf in order to satisfy domestic demand.

• The Cigarette Factory Association reported that up to 35% of domestic demand for tobacco leaf is supplied by imports (2017).

• Tobacco farmers insist that the government has to set the import limitation or import quota and should take a part in the improvement of domestic tobacco quality. On the other side, the factory owners insist that the government should not interfere with import quotas because of shortages in domestic production.
Tobacco manufacturing accounts for 5.3 percent of the economy, as compared with food (27.43 percent), garment (11.43 percent), and textile (7.90 percent).

Tobacco manufacturing is geographically concentrated in East and Central Java (76 percent) and West Nusa Tenggara province (18 percent).

Income from kretek rolling (clove cigarettes) represents an average 43 percent of income among kretek households.

About three-quarters of tobacco-farming households derive less than 50 percent of their income from tobacco cultivation, and over half of clove farmers generate less than 20 percent of their household income from cloves. (World Bank, 2018).
Tobacco consumption in Indonesia is increasing, making the country the fifth largest tobacco market in the world as reported by Tobacco Control Support Centre in 2012.

The prevalence of smoking has increased from about 27% in 1995 to 36.3% in 2013 (Ministry of Public Health, 2016).

Smoking among 16-19-year olds increased three times from 7.1% in 1995 up to 20.5% in 2014. Teenage smokerers (aged 10-14) increased more than 100% within 20 years, from 8.9% in 1995 to 18% in 2013.

Ironically, in 2010 up to 11.9% of household expenses were spent on cigarettes (tcsc-indonesia.org).
Tobacco Mortality & Morbidity

The macroeconomic costs of tobacco use (death, disability, lost productivity, etc.)

Rp 596.61 trillion

Macroeconomic cost

Therefore, the macroeconomic cost is higher than that of macroeconomic benefit in Indonesia

Rp 327.98 trillion

Macroeconomic Benefit

Value added of tobacco estate crops and tobacco manufacturing, Government Revenue of Tobacco Excise Tax
# Road Map for Tobacco Taxes

## Excise Policy on Tobacco-related Industry Roadmap 2007-2020

|-------------------|-------------------------------|-------------------------------|
Tobacco Tax Policy

<table>
<thead>
<tr>
<th>Type of Tax</th>
<th>Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exice</td>
<td>Directorate General of Custom</td>
</tr>
<tr>
<td>VAT</td>
<td>Directorate General of Taxation</td>
</tr>
<tr>
<td>Tobacco Tax</td>
<td>Local Government</td>
</tr>
</tbody>
</table>

Tobacco tax policy is also of interest to several ministries. They include The Ministry of Industrial Affairs, Ministry of Trade, Ministry of Finance, Ministry of Agricultural, and the Ministry of Manpower. Private groups, such as the Association of Cigarette Producer and the Association of Commodity Farmer are also involved in the public and policy debates.
Other realities that have influenced the tobacco tax structure in Indonesia include the following (Haryono, 2007):

1. tobacco companies are giant business entities; they are considerably dominant in the market and can make the business climate unfair and less transparent,
2. excise duty imposed by government was not based on a clear plan and was solely focused on achieving short-term goals,
3. business entities had the capacity to optimize loopholes in regulations,
4. giant business entities could avoid high excise tariff by establishing other new smaller factories,
5. unclear administration process of entry and exit to determine classification of the factory,
6. impact of illegal cigarettes on small to medium cigarette factories, as consumers switch from small/medium brands to illegal brands based on prices,
7. the distortion of price at the buyer level,
8. minimum standard for qualified tobacco products,
9. lack of clarity in laws related to levies,
10. number of state levies related to excise regulation, and
11. unclear regulation related to marketing or advertising activities.
Excise – Tobacco Products

Excise Rate for Tobacco

The Development of Excise Rate in Indonesia

Ministry of Finance Regulation No. 167 of 2011 on Tobacco Excise Tariff

Ministry of Finance Regulation No. 179 of 2012 on Tobacco Excise Tariff

Ministry of Finance Regulation No. 205 of 2014 on Tobacco Excise Tariff

Ministry of Finance Regulation No. 147 of 2015 on Tobacco Excise Tariff

Ministry of Finance Regulation No. 146 of 2016 on Tobacco Excise Tariff

Ministry of Finance Regulation No. 156 of 2018 on Tobacco Excise Tariff

Excise Policy for Tobacco Industry
Excise – Tobacco Products

**MoF Regulation No. 156/PMK.010/2018**

- **Excise for Tobacco Industry remain the same**
- **No increase of Minimum Sales Price**

During 2013-2018, the increase in excise tax rates and the adjustment of retail prices of Tobacco Products have succeeded in controlling HT production by decreasing production by 2.8% and increasing state revenue by 10.6%.

*MoF Press Release, 16 December 2018*
Recommendation

- Indonesian government should significantly increase excise tax on tobacco products. Higher taxes and prices will encourage smokers to quit and discourage youth from starting to smoke. Consumer household expenses spent on smoking will be spent on other goods and services. This will increase employment in those industries and generate additional revenues for the government.

- New regulations on taxing imports of raw tobacco are also needed.
Tobacco Production and Distribution

VAT on Cigarette

Factory

Distributor

Mid Distributor

Retailer

Consumer

VAT

No VAT
Value Added Taxes (VAT) on Tobacco

• In Indonesia, the treatment of VAT and excise imposition on tobacco industry is quite different from other industries.
• Generally and conceptually, VAT is levied when a good/service is consumed or proxy of consumption in each stages of economic chain, then the final consumer will be the person who bear the VAT burden.
• For tobacco product, VAT and excise will be imposed only once on the producers or importer level. Then, the levies will be shifting to the consumers as the component of selling price.
• For the whole sellers that the main business is solely to distribute the tobacco product do not have to registered as the taxable entrepreneur. Thus, they do not have VAT obligation and excise duty.
• This mechanism is intended to simplify the administrative burden since the credit mechanism for VAT obligation has been settled in the producers stage.
• The premises behind this mechanism is to ensure that the government will has collected the revenue even before the cigarette has been consume by the consumers.
Value Added Taxes (VAT) on Tobacco

**Case of Cigarette Distribution and VAT**

VAT treatment for cigarette products is different than general VAT treatment in which VAT is collected in every stage and on the value added. The treatment has made an impact for the cigarette distributors. In a case in Central Java, the cigarette distributor, as small medium enterprise (SME), has been declared as VAT Entrepreneur (Pengusaha Kena Pajak) even tough the annual sales is mostly from cigarette producers which are not subject to VAT on the distribution and the cigarette distributor also depends on the sales of non-cigarette products.

The cigarette distributor may not have a significant profit margin from the cigarette distribution and they profit mostly from the terms of payment from main cigarette distributors and non-cigarette products purchased by cigarette buyers.

<table>
<thead>
<tr>
<th>Period (Year)</th>
<th>Effective Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002 - 2015</td>
<td>8.4%</td>
</tr>
<tr>
<td>2016</td>
<td>8.7%</td>
</tr>
<tr>
<td>2017</td>
<td>9.1%</td>
</tr>
</tbody>
</table>
## Multistage Credit Mechanism VAT

**Diagram:**

- **Manufacture**
  - Taxable Goods: 100
  - VAT: 10
  - Total: 110

- **Distributor**
  - Taxable Goods: 200
  - VAT: 20
  - Total: 220

- **Retail**
  - Taxable Goods: 300
  - VAT: 30
  - Total: 330

- **Consumer**

<table>
<thead>
<tr>
<th>Output VAT</th>
<th>Producer</th>
<th>Distributor</th>
<th>Retail</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>VAT</td>
<td>10</td>
<td>20</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Input VAT</td>
<td>-</td>
<td>-10</td>
<td>-20</td>
<td>-30</td>
</tr>
<tr>
<td>Paid to Government</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>30</td>
</tr>
</tbody>
</table>
Local taxing power.
Cigarette tax is a local tax whose authority is owned by the provincial government.
The object of cigarette tax is cigarette consumption in a jurisdiction of the provincial government.
The subject of cigarette tax is cigarette manufacturers/producers and importers with a permit in the form of Identification Number of Entrepreneurs of Excisable Goods.
The objects exempted from cigarette tax are cigarettes not subject to excise based on the legislation in excise tax.
The adoption of the concept of Earmarking Tax in regulating local tax collection is a step forward.
The adoption of this concept is expected to further ensure the availability of funds of local governments to finance certain local expenditure and increase accountability in the utilization of funds obtained from local taxes.
Cigarette Tax directly collected by the central and local governments (provincial and district/municipal governments) is required to be allocated to finance expenditure for predetermined services.
However, there is unapporriate in the allocation of funds received from Cigarette Tax.
Earmarking of cigarette tax should be implemented based on local consideration of each region. Funds should be earmarked for health care, especially for smokers who need treatment for tobacco-related diseases, and to encourage tobacco farmers to switch to other crops and industries.

Evaluation and monitoring for earmarking is needed to improve the application of earmarking in various provinces and region.
Online Media and Tobacco Marketing

Constitutional Court Verdict No. 6/PUU-VII/2009

Prohibition for Tobacco Marketing in Publication and Free-to-Air TV

Limitation on Sponsorship
Diberitakan sebelumnya, ratusan bus berlabel Transjakarta ditemukan terbengkalai di lahan kosong yang berada di Kecamatan Dramaga, Kabupaten Bogor, Jabar.

Bus tersebut terlihat usang dan berkarat.

Kepala Humas Transjakarta Wibowo membantah bahwa ratusan bus tidak terpakai di kawasan Dramaga maupun yang berada Perum
Tobacco Marketing

Online Marketing

Online Platform
Pasal 6 UU PPh
(1) Besarnya Penghasilan Kena Pajak bagi Wajib Pajak dalam negeri dan bentuk usaha tetap, ditentukan berdasarkan penghasilan bruto dikurangi biaya untuk mendapatkan, menagih, dan memelihara penghasilan, termasuk:
a. biaya yang secara langsung atau tidak langsung berkaitan dengan kegiatan usaha, antara lain:

............................

7. biaya promosi dan penjualan yang diatur dengan atau berdasarkan Peraturan Menteri Keuangan;

Could we limit the Tobacco Marketing based on Tax Law?
Art 6 (1)(a ) (7) of Income Tax Law : Promotion Expense

**DGT Circular Letter No. SE-29/PJ.42/1990:**
- 5% of the total sales for the company whose sales is up to 100 billion rupiah.
- 2% of the total sales for the company whose sales is above 100 billion rupiah.

**MoF Regulation No. 104/PMK.03/2009 (PMK 104/2009):**
Limitation about promotion expenses for Cigarette Company
a. 3% of the total sales and maximum of 10 billion rupiah for cigarette company whose sales is up to 500 billion rupiah.
b. 2% of the total sales and maximum of 30 billion rupiah for cigarette company with turnover 500 billion - 5 trillion rupiah.
c. 1% of the total sales and maximum of 100 billion rupiah for cigarette company with turnover above 5 trillion rupiah.

**MoF Regulation No.02/PMK.03/2010** about Promotion Expense that could be Deductible Expense
- Revoking PMK 104/2009
- Nominative List for Promotion Expense

**DGT Circular No. SE-9/PJ/2010** about MoF Regulation No. 104/PMK.03/2009
Tobacco Marketing – Tax Law

Tax Law

Budgetary

Regulatory
Recommendation

- There should be a limit on how much the tobacco industry can spend on marketing and the amount should be reduced regularly.
- Digital media marketing for tobacco industry should be regulated so the industry cannot promote smoking to youth.
Limited Liability Company (Perseroan Terbatas) is required to perform Corporate Social Responsibility (CSR) based on Law No 40 of 2007 about Limited Liability Company (Perseroan Terbatas).

CSR is required by Law No. 25 of 2007 about Capital Investment (Penanaman Modal).

CSR is generally in the form of donations for disasters, education, research and development, social infrastructure and sports coaching can actually be used as a cost in accordance with Article 6 paragraph (1) letters i, j, k, l, m, n of Income Tax Law.

CSR, regulated in Government Regulation No 93 of 2010, which would make it a deductible expense for income tax purposes.
CSR and Tobacco Industry

Stakeholders
- tobacco farmers, local people living nearby

Non Stakeholders
- a sports facility, an education facility

Non—stakeholders activities raise issues related to the use of tobacco company’s brand, confounding CSR with promotion or marketing tools for the company.

Tax authorities are concerned about the expenses related to the CSR activities and may deem that CSR activities are non-deductible expenses.
CSR and Tobacco Industry

CSR activities are reported through a Sustainability Report which could be used by Tax Office to understand CSR from Tobacco Industry.

There are many different types of CSR activities that could be performed by the Tobacco Industry, though basically the tax treatment for CSR expense will have to meet the requirement for deductible expenses based on article 6 of Income Tax Law and GR No. 93 of 2010.

There is a need to synchronize the regulation for CSR activities based on Law No. 40 about Company and Tax Law, e.g. on the compulsory CSR activities before profit is achieved until the fact that there is no VAT regulation for CSR activities.
Recommendation

- New regulations on transparency between corporate social responsibility (CSR) activities and marketing are needed. The cost of CSR activities that promote tobacco use should not be used as a deductible expense.
Q & A
Prof. Dr. Gunadi, M.Sc., Ak

• Prof. Dr. Gunadi, M.Sc, Ak completed his Bachelor of Accounting from Gadjah Mada University in Yogyakarta, education in the Master of State Finance from The Hague Institute of Public Finance and education in the International Tax Law Doctor from the University of Leiden in the Netherlands.

• Inaugurated as a Professor of the University of Indonesia in 2008. In the academic field, he has served as Professor of Tax Administration FISIP UI since 2008.


• He also served as the chief of the PPATK (2006-2011). Member of the Commission for Taxation Supervisory Committee, Ministry of Finance of the Republic of Indonesia (2015 - present).


• He is also active as a resource for various international and national seminars, training and speakers in news in the mass media.
Prof. Muhammad Handry Imansyah, MAM, Ph.D.

- Prof. Muhammad Handry Imansyah, MAM, Ph.D. got his PhD in 2002 in Economics from the University of Queensland, Brisbane, Australia. His research interests are macroeconomic policy, economic modelling, regional economics and environmental economics.
- His master degree was obtained in 1992 from Department of Agricultural Economics, Mississippi State University, Starkville, USA in the field of agribusiness management, and his BSc in Economics and Development Studies, graduated from Gadjah Mada University in 1985. Since 2015, he is a Professor of Economics at the Faculty of Economics and Business, Lambung Mangkurat University, Indonesia.
- He is a member of Indonesian Economist Association (ISEI), Indonesian Regional Science Association (IRSA). He was as a Head of Department of Economics and Development Studies in 1994, he was Deputy Director for Research at Management Institute, Faculty of Economics and Business, Lambung Mangkurat University.
- During 2000-2007, he was a consultant of Asian Development Bank (ADB) for Ministry of Finance to prepare the establishment of Indonesian Surveillance Unit. During August 2007-January 2008, he was an Endeavour Visiting Research Fellow at The Queensland University of Technology, Brisbane, Australia. May-September 2009, he was a visiting lecturer at the Faculty of Economics and Administration, the University of Malaya, Malaysia. During 2009-2011, he was a consultant of ADB and as a Deputy Team Leader for decentralization project in Ministry of Finance.
- During 2013-2014, he was as a Task Team Leader GIZ project for Strengthening Financial Management Training Center on Six Universities and One State School of Accountancy in Indonesia. Since 2012-2018, he is as an economist for Ministry of Finance to provide feedback on regional economy, fiscal and macroeconomic policy issues.
Titi Muswati Putranti was born in West Java in 1961. She is currently as a lecturer and researcher, as well as Chief Executive of Tax Centre Faculty of Administrative Science.

In 2014 – 2018 she was a Vise Dean for Human Resource, Business Development and General Administration Affair Faculty of Social and Political Science of University of Indonesia.

She got Doctoral Degree in Tax Policy from University of Indonesia and she earned her Master Degree in taxation from University of Indonesia as well.

Her experiences is supported with some course, training as well as seminar and conference such course and research on aspects of taxation, in particular the organization and management of the tax administration, domestic and international tax policy, as well as selected aspects of international tax law IBFD International Tax Academy, Amsterdam.


She has a wide of experience in consultancy on tax policy and compliance and had joined with the international tax consultants such KPMG and PwC.

She has also doing the research for international institutions such as UK Department for International Development (DFID), World Bank, GIZ as well as the local institutions.
Andreas Adoe, SE., LLM

- Andreas Adoe, completed his Diploma in Accounting and Taxes from State Accounting College (1997 and 2002), Bachelor of Economics in Accounting, Faculty of Economics, University of Indonesia (2005) as well as Master of Laws (LLM) of European and International Tax Law, European Tax College, Tilburg University, Netherlands (2008).
- In addition to formal academic education, he was actively involved in a number of tax training at home including tax training from Indonesia’s Tax Consultant Association and was previously an IBFD Trainer for international taxation and transfer pricing.
- His various experience including becoming tax auditor until tax litigation staff at Indonesia’ tax office, tax and transfer pricing advisor, tax researcher for international and domestic taxation at IBFD international tax advisor at AIPEG which gives his input and tax policy study to the Ministry of Finance, tax lecturer at university and various tax training.
- He has published various articles in international journal from International Transfer Pricing Journal and Asia Pacific Tax Bulletin until articles in national newspaper in Indonesia.
Maria R.U.D. Tambunan, S.I.A, MGE

- **Maria R.U.D. Tambunan** was born in North Sumatera in 1988. She currently works as a lecturer in Department of Fiscal Administrative Sciences and researcher in Tax Centre University of Indonesia.

- Formerly she worked as a tax consultant for Ernst and Young Indonesia (2010-2013). She obtained her Bachelor Degree from Fiscal Adminstrative Science University of Indonesia (2010) and Master Degree of Public Economics and Public Finance from Faculty of Economics Universite de Rennes 1 under France Government Education Fund (2014).

- Besides formal education, she signed up several intensive course related to international taxation issues such as Principle of Transfer Pricing-Post BEPS held by IBFD in 2016, Comparative International Tax in Asia Pacific with BEPS Framework held by University of Indonesia and University of Melbourne in 2017 and Advance International Tax and Transfer Pricing hel by University of Indonesia and ITC Leiden University in 2017.

- She has published several academic articles in international publication and is as a book- series editor of Indonesian Taxation System and Procedure Law published by Rajawali Press, besides she is also a contributor for several Indonesia Tax Magazines, recently she writes tax articles for Indonesian Tax Review.

- Currently, Maria also undertakes Doctoral Degree in Faculty of Administrative Science with Doctoral Research with the title "Globalization and the Change of Tax Landscape in Developing Countries: A Case of Indonesia".
Contact us.

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