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Fulfilling Gender Equality Rights for Women Taxpayers in The Concept of Pink Tax in Indonesia

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ABSTRACT: The concept of gender equality for female taxpayers in Indonesia is still of little concern, in contrast to other countries which have paid attention to the position of women as taxpayers from planning types of taxes, tax rates, and tax payments to the state. Through the method used, which is normative juridical, with a statutory approach and taxation theory that is legally just, the desired impacts in this research include: 1) Identification of the rights of female taxpayers and problems of inequality of rights among female taxpayers in tax regulations in Indonesia. 2) Finding the most appropriate way to fulfill gender equality rights for female taxpayers in the pink tax concept in Indonesia. The findings proved that: 1) Fulfillment of rights for female taxpayers has not been fully accommodated in tax regulations in Indonesia, where female taxpayers should have the same rights as male taxpayers, for example in the implementation of Income Tax (PPh) and Value Added Tax (PPn) which is still ongoing. Rights gaps were found, including the right to obtain tax information, the right to have one's own NPWP, the right to choose tax status, the right to obtain protection against wage disparities, and the right to obtain prices for basic necessities that are not more expensive than goods for tax purposes for men. 2) Indonesia should immediately plan a gender-responsive pink tax-themed tax plan, where the decision-making process is to develop programs or activities that will be implemented to address gender issues in the tax sector. This planning is carried out by taking into account the differences between men and women, as well as eliminating structural and cultural barriers to achieving gender equality. The proposed model is the reconstruction of tax policies that are fair between women and men to overcome gender gaps, namely policies that inclusively consider the specific needs of women, including providing tax incentives for women, as well as providing space for women to act and decide for themselves regarding their tax status.

KEYWORDS: gender equality, tax law, female taxpayers, pink tax

I. INTRODUCTION

Gender issues are always biased, both in foreign countries on an international scale and domestically. Many issues arise but only focus on equality between women and men, even though in fact it is not only that problem, but can also be equality between minority and majority groups. Gender problems first emerged in the 19th century in France, where the wages of male workers were different from those of female workers, so that it was then considered that there was inequality or injustice between women and men.

In Indonesia, there is still a patterned mindset from a social and cultural perspective, where in patriarchal terms the man is the head of the family who is the backbone for the family's livelihood. This is different from women who are considered more suitable to be at home taking care of the household. This paradigm is slowly starting to shift, where many women are now making their own money, especially since the proliferation of online transaction activities has meant that women can work even if they do it from home. However, this does not mean that gender inequality in Indonesia has reduced much or even disappeared.

Based on data from the Central Statistics Agency, Indonesia's Gender Gap Index (IKG) in 2022 is 0.459 compared to 2021 which was 0.465. There was a decrease of 0.006 points, which means there was an improvement supported by increased achievements in the dimensions of reproductive health and women's empowerment. However, this decline is still relatively low, so gender inequality in Indonesia is still high.[1]

One of the issues in gender inequality is the issue of taxes, which often goes unnoticed. At the G-20 Presidency which will take place in November 2022, the issue of gender-based taxation (GBT) was raised where according to the Organization for

[1] https://www.bps.go.id/id/pressrelease/2023/08/01/2042/indeks-ketimpangan-gender--ikg--2022.html accessed on Februari 12, 2024.

Economic Cooperation and Development (OECD), women must be given tax incentives. This stems from the implementation of taxes which so far is not gender neutral because there are different roles and needs for women and men.[2]

For example, women who work will usually occupy less important positions whose pay is much lower than men. According to the results of the National Labor Force Survey (Sakernas) in 2023, the average wage for female workers is only IDR 2,420,000,- while the average wage for male workers is IDR 3,230,000.[3]

Apart from that, it will be increasingly difficult for women who are married to find work because they are considered less competent, especially in dividing their time between work and taking care of their family. Likewise, if a woman is pregnant and gives birth, takes leave, so her income is reduced because she doesn't work, but she doesn't get any tax incentives at all.

In many countries, the concept of providing incentives or gender-based taxes has been widely implemented. Singapore has implemented Working Mother's Child Relief (WMCR) where non-taxable income (PTKP) is given more to women who give birth. This provision does not apply to female taxpayers who are single or to male taxpayers.[4]

In the UK, the government has exempted tax on baby diapers which are consumer goods for women after giving birth.[5] Kenya, Australia, Canada, India, Jamaica, Nicaragua, Nigeria, Tanzania, Lebanon, Malaysia, Colombia, Rwanda, South Africa, Italy, the United States and Namibia are countries that exempt taxes on sanitary napkins and tampons for women.[6] However, this is not the case in Zimbabwe, which imposes very high taxes on sanitary napkins and tampons[7] so that in this poor country women use cow dung as a substitute for sanitary napkins.[8]

Gender-based taxes are actually nothing new, since in 1996, for the first time, the Governor of California followed by the Governor of New York in 1998 revoked regulations that were considered discriminatory because they contained different rates for men and women, such as haircut and laundry rates.[9] This difference in rates causes the tax covering these goods and services in the form of Value Added Tax (VAT) to be greater.

In Indonesia, the reduction or exemption from the pink tax has not been implemented by the government. This should be a concern, because through its authority and power the Government can contribute to the policy of reducing or eliminating price discrimination based on gender through different tariffs, as agreed in the last G-20 Presidency.

Therefore, this article explores the following research questions; what are the rights of female taxpayers in tax regulations in Indonesia and their problems and, how are the rights to gender equality fulfilled for female taxpayers in the pink tax concept in Indonesia?

II. METHOD

This research will be carried out in a normative juridical manner, with an approach regulations (statute approach) and fair taxation theory laws, as well as other documents relating to gender equality, rights constitutional taxpayers, as well as tax collection. The method is optional for original research articles.

This research uses secondary data as a data source, which is found Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials, which are obtained using data collection techniques through observation and interviews.

Processing of legal materials will be carried out through stages of positive law description, systematization of positive law, analysis positive law and interpretation of positive law. Then continue with systematic reflection on the legal reality in its application. Analysis of legal materials and data is carried out descriptively analytically, namely examine legal concepts, legal principles, legal norms and legal systems relating to the Fulfillment of Gender Equality Rights for Taxpayers Women in the Concept of Pink Tax in Indonesia. Judging from the aspect Dogmatic legal science, analysis of legal materials is carried out by

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[2] Herry Setyawan, Perpajakan Berbasis Gender atau Gender Based Taxation (GBT), https://komwasjak.kemenkeu.go.id/in/post/perpajakan-berbasis-gender-atau-gender-based-taxation accessed on Februari 10, 2024.

[3] Booklet Survey Angkatan Kerja Nasional Februari 2023, https://www.bps.go.id/id/publication/2023/07/07/40a0b3f1fd46be1a5edbae1d/booklet-survei-angkatan-kerja-nasional-februari-2023.html accessed on Februari 11, 2024.

[4] https://www.iras.gov.sg/taxes/individual-income-tax/basics-of-individual-income-tax/tax-reliefs-rebates-and-deductions/tax-reliefs/working-mother's-child-relief-(wmcr) accessed on Februari 11, 2024.

[5] Greg Heffer, 2021, *No Plans For Tax O Disposable Nappies, Number 10 Says*, https://news.sky.com/story/no-plans-for-tax-on-disposable-nappies-number-10-says-12395896 accessed on Februari 11, 2024.

[6] Retno Anggraini, 2022, *Diskriminasi Harga Berbasis Gender, Ini Yang Perlu Kamu Ketahui Tentang Pajak Tampon*, https://www.beautynesia.id/life/diskriminasi-harga-berbasis-gender-ini-yang-perlu-kamu-ketahui-tentang-pajak-tampon/b-267188/2 accessed on Februari 9, 2024.

[7] https://www.cnnindonesia.com/gaya-hidup/20190625133831-255-406217/geger-pajak-pembalut-dan-tampon-di-tanzania accessed on Februari 9, 2024.

[8] Nadya Quamila, 2022, *Sedih! Perempuan Di Zimbabwe Terpaksa Gunakan Kotoran Sapi Sebagai PEngganti Pembalut Yang Mahal*, https://www.beautynesia.id/life/sedih-perempuan-di-zimbabwe-terpaksa-gunakan-kotoran-sapi-sebagai-pengganti-pembalut-yang-mahal/b-259459 accessed on Februari 9, 2024.

[9] Amy Fontinel, 2023, *What Is The Pink Tax? Impact on Women, Regulation, and Laws*, https://www.investopedia.com/pink-tax-5095458#:~:text=Researchers%20in%20gender%20inequality%20often,for%20similar%20products%20and%20services. accessed on Februari 8, 2024.

means of presentation and analysis of the applicable legal structure, legal systematization, legal interpretation and assessment.[10]

III.DISCUSSION

THE RIGHTS OF FEMALE TAXPAYERS IN INDONESIAN TAX REGULATIONS

Discussions regarding women and gender have expanded significantly and have become an integral part of the public conversation. Gender-based taxation (GBT) has become the latest issue in the context of the tax interests of female taxpayers. GBT is a tax reform that provides more privileges to female taxpayers. One form of proposed GBT is a lower marginal tax rate for women. In Indonesia, GBT has not been implemented optimally, or has not been accommodated well enough in Indonesian tax regulations.

The types of taxes taken in the description of this paper to illustrate the issue of inequality in fulfilling gender equality rights for female taxpayers in Indonesia are Income Tax (PPh) which is a subjective type of tax and Value Added Tax (VAT) which is an objective type of tax.

THE RIGHTS OF FEMALE TAXPAYERS IN INCOME TAX (PPH) REGULATIONS

PPh is imposed on those who have income in the form of additional economic income, the most common of which is in the form of salary or wages received at work. Based on BPS data, the number of women working as professionals in 2023 will be 49.53% or almost half of the total population of Indonesia, both women and men who work.[11] With that many female workers, it turns out that the contribution of women's income to the state treasury is only 37.09%.[12] Even though the Gender Inequality Index in Indonesia has decreased from 0.465 in 2021 to 0.459 in 2022 and finally 0.447 in 2023, the decrease is not significant.[13]

The aspect of fairness in income tax for women can be found in Article 7 UUPPh which regulates the amount of PTKP and Article 8 UUPPh which determines tax conditions for women with married status. PTKP is designed to provide tax relief for taxpayers with certain incomes, including factors such as marital status and number of dependents.

Article 7 paragraph (1) determines the types of PTKP, including:

a. For the taxpayers themselves,
b. For married taxpayers,
c. Additional PTKP for a wife whose income is combined with her husband's income, and
d. Additional PTKP for each member of the blood family and joint family in the direct line of descent as well as adopted children, who are fully dependent, a maximum of 3 (three) people for each family.

Article 7 paragraph (3) further explains that the amount of PTKP is determined by a Minister of Finance Regulation after consultation with the DPR. To date, the PTKP used is regulated in Minister of Finance Regulation Number 101/PMK.010/2016 concerning Adjustment of the Amount of Non-Taxable Income (PMK-PTKP). This PTKP adjustment was delegated by UUPPh to the Minister of Finance because there were considerations regarding developments in the economic and monetary fields as well as developments in the increasing prices of basic necessities.

The amount of PTKP in PMK-PTKP is described in the following table.

Table 1. 2024 PTKP Rates Based on Number of Dependents.

Group	Code	PTKP rates
Not Married (TK)	TK/0 (no dependents)	Rp54.000.000
	TK/1 (1 dependent)	Rp58.500.000
	TK/2 (2 dependent)	Rp63.000.000
	TK/3 (3 dependent)	Rp67.500.000
Married (K)	K/0 (no dependents)	Rp58.500.000
	K/1 (1 dependent)	Rp63.000.000
	K/2 (2 dependent)	Rp67.500.000
	K/3 (3 dependent)	Rp72.000.000
Married + Wife (K/I) Husband and wife's income combined	KI/0 (no dependents) KI/1 (1 dependent)	Rp112.500.000 Rp117.000.000
	KI/2 (2 dependent)	Rp121.500.000
	KI/3 (3 dependent)	Rp126.000.000

Source: Minister of Finance Regulation Number 101/PMK.010/2016.

[10] D.H.M Meuwissen, 1994, Ilmu Hukum (Penerjemah B. Arief Sidharta), Pro Justitia, Jurnal Unika Parahyangan, Tahun XII No.4, Oktober p. 26-28.

[11] https://www.bps.go.id/id/statistics-table/2/NDY2IzI=/perempuan-sebagai-tenaga-%20profesional-%20persen-.html accessed on July 19, 2024.

[12] https://www.bps.go.id/id/statistics-table/2/NDY3IzI=/sumbangan-pendapatan-perempuan.html on July 19, 2024.

[13] https://www.bps.go.id/id/statistics-table/2/MjE5NiMy/indeks-ketimpangan-gerder--ikg-.html diakses 6 Agustus 2024.

The aim of PTKP is actually a form of realizing the values of justice, both vertically and horizontally, which is a continuation of the principle of ability to pay. The principle of fair taxation requires people who have the same economic ability to pay the same tax (horizontal), while people who are better off must contribute more (vertical). This principle is applied so that the tax burden is distributed evenly and according to each individual's abilities.

Horizontal justice applies the basic principle of equality before the law. Income tax is the right instrument and people who have the same income, must pay the same tax. Meanwhile, vertical justice is also in line with equal treatment but is carried out based on the premise that people who have higher incomes must pay higher taxes.[14]

If this principle is linked to Pancasila, it will be in accordance with the Second Principle and the Fifth Principle of Pancasila. The Fifth Principle "social justice for all Indonesian people" is realized in horizontal tax justice, where taxes must be collected fairly and evenly. Meanwhile, the Second Principle of "just and civilized humanity" is correlated with vertical tax justice, that taxes must be collected taking into account each individual's carrying capacity without any discrimination.[15]

In relation to PPh for female taxpayers, PTKP as regulated in the PPh UUPPh has an impact on fulfilling the rights of female taxpayers. Working women are often targets for layoffs (PHK) due to gender stereotypes that view them as additional breadwinners or because of reproductive factors (menstruation, marriage, childbirth and breastfeeding). Working women, especially those who are married or have children, are also often the last priority in retaining the workforce when companies are working on efficiency. This fact causes women to experience a double burden, where they have to take care of their family while also earning a living.

The facts above show that women are not flexible in their work, and tend to be more sensitive to tax policies than men. The presence of children sometimes encourages women's participation in work.[16] This is because when women have entered their natural period, namely marriage, pregnancy and giving birth, they will face matters related to employment regulations.

Even though the rights of women workers in menstruation, pregnancy, childbirth and breastfeeding are guaranteed by the Labor Law, in practice many women have to give up and choose not to work and become housewives.
These rights include:

1) Article 81 paragraph (1), Female workers/laborers who feel sick during their menstruation period and notify the employer, are not obliged to work on the first and second day of menstruation, wages must still be paid.
2) Article 82 paragraph (1), Female workers/laborers have the right to rest for 1.5 (one and a half) months before giving birth and 1.5 (one and a half) months after giving birth according to the obstetrician or midwife's calculations, fixed wages must be paid.
3) Article 82 paragraph (2), Female workers/laborers who experience a miscarriage are entitled to rest for 1.5 (one and a half) months or in accordance with a certificate from an obstetrician or midwife, and wages must still be paid.
4) Article 83, Female workers/laborers whose children are still breastfeeding must be given the proper opportunity to breastfeed their children if this must be done during work time.
5) Article 84, provides a guarantee that every worker/laborer who uses the above right to rest time is still entitled to full wages. Article 93 of the Manpower Law orders employers to pay the wages of female workers who take menstrual leave.

Even though there are regulations that protect working women, in reality many women still do not get their rights, such as maternity leave. This is because these rules are often not implemented properly. The implementation of laws and regulations that protect the rights of female workers is still weak, so that many female workers still experience discrimination, one of which is not getting the right to leave or payment of wages as regulated by law.

The PTKP on the income of a married female worker is indeed greater than that of a single female worker, so the tax calculation is of course much greater for single women. However, the needs of female workers who are married and have children are much greater, such as child care costs, child care costs, education costs and children's living costs, which of course can exceed the PTKP.

THE RIGHTS OF FEMALE TAXPAYERS IN VALUE ADDED TAX (VAT) REGULATIONS

Value Added Tax (VAT) is a type of objective and indirect tax, because it can be charged to other parties, namely consumers. The rate used in calculating VAT is a proportional rate whose percentage remains the same even if there is a change in the tax base. In other words, whatever the number of tax objects, the percentage will remain the same. Currently the VAT rate as determined in the UUHPP is 11%, and in 2025 it will be increased to 12% based on Government policy.

VAT is imposed on sales and purchase transactions of goods and services to individual or corporate taxpayers, is a type of indirect tax whose burden is handed over to consumers, even though this is actually the obligation of the taxable entrepreneur. In relation to VAT, the goods and/or services required by women and men are very diverse, due to general differences in the goods needed between women and men.

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[14] Musgrave & Musgrave, 1989, Public Finance in Theory and Practice Fifth Edition, Singapore, McGraw-Hill Book Co. p. 429.

[15] Rochmat Soemitro, 1992, Pengantar Singkat Hukum Pajak, Eresco, Bandung, p.16-19.

[16] Sri Mulyani Indrawati, 1992, *Measuring The Labor Supply Effect of Income Taxation Using a Life-Cycle Labor Supply Model: A Case of Indonesia (Dissertation)*, University of Illinois at Urbana-Champaign.

There is no general rule that states that VAT goods for women are always more expensive or cheaper than VAT goods for men. The price of an item is more influenced by factors such as lifestyle, work and interests. The basic needs of both men and women are the same, such as food, clothing, shelter and health. However, there are some basic needs that men do not use but women need, such as cosmetics and sanitary napkins. To find out whether there is gender inequality in VAT on goods needed by women and men, it must be compared between products of the same type and have the same specifications, both for women and men.
There are many factors that determine the price of an item, including:

1) Production costs such as raw material costs, labor and production costs.
2) Goods with well-known brands are generally more expensive.
3) Rare or limited edition items will tend to be more expensive.
4) The level of competition in the market also affects prices.
5) Taxes other than VAT, which also influence the final price of a product.

However, for basic necessities used by women every day compared to basic necessities used by men, in reality the basic necessities used by women are always more expensive than the basic necessities used by men. man. Even though both have the same function, women and men can use both without exception.

CONCLUSIONS

Indonesia should immediately plan a gender-responsive pink tax-themed tax plan, where the decision-making process is to develop programs or activities that will be implemented to address gender issues in the tax sector. This planning is carried out by taking into account the differences between men and women, as well as eliminating structural and cultural barriers to achieving gender equality. The proposed model is the reconstruction of tax policies that are fair between women and men to overcome the gender gap, namely policies that inclusively consider the specific needs of women, including providing tax incentives for women, as well as providing space for women to act. decide for themselves regarding their tax status.

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