

Penerapan gross split dalam production sharing contract sebagai upaya meningkatkan investasi minyak dan gas bumi di Indonesia = Implementation of gross split in term of production sharing contract as an effort to increase investment in oil and gas business in Indonesia

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Abstrak

Produksi migas Indonesia terus mengalami penurunan justru di saat kebutuhan domestik meningkat. Rendahnya minat investasi sektor migas dianggap sebagai salah satu penyebab penurunan produksi yang berimbas secara langsung pada penerimaan negara. Selain itu, tingginya nilai cost recovery yang harus dibayar Pemerintah kepada KKKS, juga sangat berpengaruh pada porsi bagi hasil migas yang akan diterima Pemerintah. 2015 menjadi tahun terburuk dengan catatan cost recovery yang sangat tinggi dan membuat penerimaan negara dari sektor migas defisit hingga USD1,7 Miliar.

Pemerintah akhirnya menetapkan perubahan cost recovery menjadi gross split untuk meningkatkan penerimaan negara dari sektor migas sekaligus menarik minat investasi di Indonesia melalui Peraturan Menteri (Permen) ESDM Nomor 8 Tahun 2017. Permen ESDM 8/2017 kemudian mengalami perubahan melalui Permen ESDM Nomor 52 Tahun 2017 yang memuat lebih banyak aturan fiskal atraktif yang menguntungkan baik bagi Pemerintah maupun KKKS.

Penelitian ini akan melihat bagaimana sistem gross split kemudian berpengaruh pada peningkatan investasi migas hingga akhir tahun 2018. Tinjauan analisis didasarkan pada teori dan dasar aturan investasi migas yang diatur khusus dalam UU Nomor 22 Tahun 2001 tentang Minyak dan Gas Bumi. Selanjutnya juga akan dibahas mengenai sistem Production Sharing Contract (PSC) dengan melihat perbandingan aturan fiskal antara cost recovery dengan gross split.

Penelitian dilakukan dengan menggunakan metodologi penelitian normatif, yaitu melakukan analisis pada aturan hukum terkait perusahaan migas, investasi dan gross split, merujuk pada Peraturan Perundang-undangan, Peraturan Pemerintah maupun Peraturan Menteri ESDM. Jadi, data yang akan diperoleh berupa data sekunder (bahan hukum primer dan sekunder). Pengumpulan data dilakukan melalui document study dan wawancara langsung pada Dirjen Migas Kementerian ESDM dan KKKS Nasional yang telah menandatangani kontrak dengan sistem gross split.

Kesimpulan yang diperoleh dari penelitian ini ialah: Pertama, dasar penerapan aturan gross split adalah Permen ESDM Nomor 8 Tahun 2017 beserta perubahannya pada Permen ESDM Nomor 52 Tahun 2017 tentang Sistem Bagi Hasil Gross Split. Penerapan gross split mengakar pada Pasal 1 ayat 19 UU Nomor 22 Tahun 2001 dan tidak menghilangkan kendali negara atas penguasaan sumber daya alam dan pemegang kuasa pertambangan. Kedua, penerapan gross split yang disertai deregulasi perizinan investasi berhasil meningkatkan realisasi investasi pada tahun 2018 dengan peningkatan hingga 14,9% dibandingkan dengan tahun 2017. Dengan demikian, dapat dikatakan bahwa sistem gross split menjalankan amanat Pasal 33 UUD 1945 dengan lebih baik, yaitu mengelola sumber daya alam yang hasilnya digunakan sebesar-besarnya untuk kemakmuran rakyat Indonesia.

.....Indonesia's oil and gas production continues to decline precisely when domestic demand increases. The low interest in investment in the oil and gas sector is considered as one of the causes of the decline in

production which impacts directly on state revenues. In addition, the high value of the cost recovery that the Government must pay to the KKKS also greatly influences the portion of oil and gas profit sharing that the Government will receive. 2015 became the worst year with a record of very high cost recovery and made state revenues from the oil and gas sector a deficit of up to USD1,7 billion.

The government finally determined changes in cost recovery to gross split to increase state revenues from the oil and gas sector while at the same time attracting investment interest in Indonesia through Minister Regulation of Energy and Natural Resources Number 8 Year 2017. Then, this one modified into Minister Regulation Number 52 Year 2017 which contains more attractive fiscal rules that benefit both the Government and the KKKS.

This study will look at how the gross split system influences the increase of oil and gas investment until the end of 2018. The analysis review is based on the theory and the basic rules of oil and gas investment specifically regulated in Law Number 22 Year 2001 concerning Oil and Gas. Furthermore, it will also discuss the Production Sharing Contract (PSC) system by looking at the comparison of fiscal rules between cost recovery and gross split.

The research was carried out by using a normative research methodology, namely conducting an analysis of the legal rules relating to oil and gas exploitation, investment and gross split, referring to the Laws and Regulations, Government Regulations and Minister of Energy and Mineral Resources Regulation. So, the data will be obtained in the form of secondary data (primary and secondary legal materials). Data collection was carried out through a document study and direct interviews with the Director General of Oil and Gas at the Ministry of Energy and Natural Resources and the National KKKS who had signed a gross split system contract.

The conclusions obtained from this study are: First, the basis for the application of gross split rules is Minister Regulation of Energy and Natural Resources Number 8 of 2017 along with its amendments to Minister Regulation Number 52 Year 2017 concerning Gross Split Sharing System. The gross application of the split takes root in Article 1 paragraph 19 of Law Number 22 Year 2001 and does not eliminate state control over the natural resources and holders of mining rights. Second, the implementation of gross split accompanied by deregulation of investment licensing has succeeded in increasing investment realization in 2018 with an increase of up to 14.9% compared to 2017. Thus, it can be said that gross split systems carry out the mandate of Article 33 of the 1945 Constitution better, namely managing natural resources whose results are used as much as possible for the prosperity of the Indonesian people.