

Pengawasan menteri dalam negeri dan menteri keuangan terhadap peraturan daerah tentang pajak daerah = Minister of Home Affairs and Minister of Finance's control of Local Taxes in the local government regulation, 2004

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Abstrak

<i>The consequence of the implementation of the Law Number 22 Year 1999 on the Local Government is to apply the fiscal decentralization in giving an adequate fund for the autonomous local government in order to finance its authority. One of evidences of the implementation of the fiscal decentralization is the birth of the Law Number 34 Year 2000, which is the modification of the Law Number 18 Year 1997, on Local Taxes and Tariffs, furthermore, to support this Law, Government Regulation Number 65 Year 2001 on Local Tax was also launched. In addition to the authority that is written in the Law Number 34, This Government Regulation Number 65 year 2001 authorizes local government to tax.

In applying the Law and Government Regulation on Local Tax and Tariff, central government has an important role to ensure that the implementation of the local's authority in taxing does not have negative effect to the local and national economic growth. Without ignoring the fairness aspect and local community burden, this somehow" overlapping taxing between Central and Local Government should be done through Controlling. The Central control on the Local Regulation on local tax is administrated by the State Minister and Finance Minister. This control is written in the Law Number 34/2000, Government Regulation Number 65/2001, Government Regulation 20/2001 on Supervising and Controlling the Local Government Arrangement, and the Presidential Decree Number 74/2001 on the Local Government Arrangement Management Control.

In the implementation, the local regulation on the local tax is considered troublesome because is contradict the article 2 : 4 Law Number 34/2000 and also it disobey the Law and Regulation that orders the Local Government has to submit its Local Regulation on tax to the Home Affairs Minister and the Finance Minister in the latest of 15 (fifteen) days since it is declared. Some points that could be stressed from this problem are: Firstly, How is the role of the Home Affairs Minister and the Finance Minister in the implementation of tax decentralization that is given to the Local Government as written in article 2 : 4 Law 34/2000? Secondly, how is the control of the both ministers in the implementation of the tax decentralization in the Local Government?

Reviewing these problems, in the general the theory of Central-Local can be discussed 3 approaches as follows: local-government centered approach, service centered approach, and the mix democratic-administrative value approach. In the implementation of the fiscal decentralization, theories that be could used in the Central-Local relationship in financial aspect are partnership model and agency model. Fiscal decentralization is based on 2 perspectives, bottom-up and top-down. To review the role and control of Home Affairs Minister and Finance Minister, there are 4 central roles in the Central-Local relationship

which affect the controlling, they are : promote role, preventive role, punitive role, and reformative role. The review on the controlling is also using theory that relates the base of controlling in the local autonomy, the condition that needed to avoid the control transforms to limiting Local Government autonomy, and the major bases of the controlling mechanism.

This research is using a qualitative approach explaining the social trend or social reality, stressing in the role and control of Home Affairs Minister and Finance Minister on Local Tax Regulation. The discussion is described descriptively that focused in 2 major fields. The first is the illustration of the role of the Home Affairs Minister and Finance Minister in the implementation of tax decentralization which is conducted by the local governments, and the second is the illustration of the implementation of control conducted by both Ministers.

Based on the research that has been done, there are some conclusions that can be taken. (1) The fiscal decentralization in Indonesia is using the partnership model and the bottom up which is based on local-government centered approach. (2) Troubled Local tax regulation is the negative product of the local-government centered approach. (3) Both Home Affairs and Finance Ministers are tend to imply promotive and preventive role, however, they are ignoring the proportional balance in implying punitive and reformative role. (4) The effect of the both Ministers' role is the less effective control from both Ministers that caused conflict between both institutions in. (5) The coordination between both Ministers have not settled yet.

Refer to those conclusion, advices that can be given in this thesis are as follow: (1) The Partnership Model and the bottom-up should also balance the democratization, efficiency, and administratively economical local government. (2) the local-government centered approach has to be changed with approach that combine the democratic and administrative value. (3) Home Affairs Minister and Finance Minister should imply the balance and proportional promotive, preventive, punitive, and reformative role. (4) There is a need of a clear line separating between the Home Affairs Minister and Finance Minister's authority. (5) The need of clear control coordination should be followed by the modification of the Law 34/2000, Government Regulation 65/2001, and Government Regulation 20/2001.</i>