



UNDERGROUND ECONOMY AND TAXATION OF PROSTITUTION (LITERATURE STUDY IN INDONESIA)

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Abstract

Prostitution is actually an undergorund economy that is difficult to detect, because every commercial sex worker in this business is difficult to distinguish from ordinary people in general. In terms of taxation, tax is designed not to recognise assets obtained from legal activities, and from illegal activities, no matter whether the income is obtained from corruption, prostitution, human trafficking, illegal arms trade and even narcotics. As long as it is known that there is an increase in income or enjoyment, the state has the right to collect taxes. However, the relationship between prostitution and taxes is very sensitive. Prostitution business has a huge potential. Exploring the potential of this business if done massively will increase tax revenue significantly, but there is a trade off that DJP must face. In this case, DJP must also use the moral point of view prevailing in society. Taxing something illegal and immoral will indirectly give an opinion to the public that the state legalises the activity.

Keywords: Prostitution, Tax, Underground Economy

Abstrak

Prostitusi sejatinya merupakan undergorund economy yang sulit dideteksi keberadaannya, karena setiap pekerja seks komersial yang ada di bisnis ini sulit dibedakan dengan masyarakat biasa pada umumnya. Di lihat dari sisi perpajakan, Pajak didesain dengan tidak mengenal harta yang didapat dari aktivitas yang legal, dan dari aktivitas ilegal, tidak peduli apakah penghasilan tersebut didapat dari hasil korupsi, prostitusi, perdagangan manusia, perdagangan senjata ilegal bahkan narkotika. Selama diketahui terdapat penambahan penghasilan atau kenikmatan, maka negara memiliki hak untuk memungut pajak. Namun hubungan antara prostitusi dengan pajak sangatlah sensitif. Bisnis Prostitusi memang memiliki potensi yang sangat besar. Penggalian potensi bisnis ini jika dilakukan secara masif maka akan meningkatkan penerimaan pajak cukup signifikan, akan tetapi terdapat trade off yang harus dihadapi DJP. Dalam hal ini DJP juga harus menggunakan sudut pandang moral-moral yang berlaku di masyarakat Mengenakan pajak terhadap sesuatu yang ilegal dan amoral akan memberikan opini secara tidak langsung kepada masyarakat bahwa negara melegalkan aktivitas tersebut

Kata Kunci: Prostitusi, Pajak, Underground Economy

INTRODUCTION

Reported in (kompas.com, 2022) states that, the Covid-19 Pandemic hit Indonesia right on 2 March 2020. This pandemic even spread quickly to various parts of Indonesia. Not only stopping there, this pandemic claimed the lives of most Indonesians affected by Covid-19. From an economic point of view, the Covid-19 Pandemic can make millions of people become unemployed instantly. How not, many companies cannot continue their business because of the lockdown set by the government.

The economy is feeling the impact of the COVID-19 outbreak. There has been a halt in economic activity as a result of PSBB or mobilisation restrictions (Permana, 2020). Therefore, measures must be taken to restart economic activities. Implementing national transformation is one method to achieve economic recovery at the national level. Based on (Kartiko & Widjiastuti, 2022), with the pandemic phenomenon, there is a deterrent effect of the pandemic, from the series of negative effects produced by the pandemic, there is one positive effect that can be felt is the development of the digital world. With the limitations caused by the pandemic, people are forced to be more creative in fulfilling their needs.

As the digital world continues to grow, so does the variety of crimes. The circulation of online girlfriend news or even online prostitution makes the digital era seen as negative. If you look at its development, prostitution activities that were previously carried out directly, are now shifting to the realm of social media because it is considered younger, more efficient and safer. The monetisation of prostitution, including internet prostitution, is currently happening because



prostitution has become a contradiction of contemporary life in a society that benefits from globalisation (Rahmaini & A Zahid, 2020).

Prostitution is one example of the underground economy in Indonesia. Reported on the page (koran-jakarta.com, 2022) states that not only in Indonesia, this prostitution business has gone global and there are even several countries that have legalised the prostitution business such as: Germany, Ireland, Japan, Brazil and the Netherlands.

According to (Schneider & Enste, 2000), the underground economy in Indonesia is growing rapidly. Underground economy is a legal or illegal economic activity that escapes the calculation of Gross Domestic Product (GDP) or commonly known as the unofficially economy which has now become a global issue.

Prostitution is actually an undergorund economy that is difficult to detect, because every commercial sex worker (PSK) in this business is difficult to distinguish from ordinary people in general. Sometimes in some places, this business can develop wildly on the streets. Coupled with the development of the current dynamics with the shift to the digital world, law enforcement and the police will find it difficult to detect this business activity.

There are many possible reasons why this activity can occur. Inadequate economic circumstances force some people to carry out this illegal activity (Supraja & Artosa, 2023). Based on the prevailing legislation in Indonesia, this is an illegal act. However, if we look at it from another perspective, this work is their lifeline to fill their stomachs and fulfil their daily needs.

In the world of taxation we are familiar with income tax. In Law (UU) Number 7 of 2021 concerning Harmonisation of Tax Regulations, 2021 and Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax defines income in article 4 briefly as all forms of additional economic capacity received from Indonesia or outside Indonesia which are used for consumption or increase wealth in any form, so that the definition of income in the Income Tax Law does not distinguish between legal and illegal income in the object of income tax. Therefore, both legal and illegal income will be taxed according to the applicable tax legislation in Indonesia.

LITERATURE REVIEW

Underground economy will always exist in a country. In fact, often the underground economy is interpreted as an act or activity that is illegal, Underground Economy that is Illegal means that is prohibited by the government or against the law such as smuggling. But in addition to the illegal Underground Economy there is an underground economy that is legal. Underground economy that is legal is defined as an action that is not against the existing law but the income obtained from these activities is not known or even reported to the competent government (Samuda, 2016).

In fact, illegal activities are not included in the calculation of GDP because in its provisions that transactions such as gambling, illegal drugs, acts of prostitution, piracy, smuggling are prohibited (Amalia et al., 2020). Meanwhile, legal activities included in the underground economy are activities of buying and selling goods and services that are not recorded or not reported, such as avoiding tax payments, avoiding the minimum wage applied and avoiding established procedures (Nizar & Purnomo, 2011).

According to (Tanzi, 2002), the underground economy is defined as income obtained on the basis of economic activities that are not reported to the tax authorities with the intention of carrying out tax avoidance actions. According to Muhammad (Kristianto & Widya, 2019), Illegal Activities in the Underground Economy are divided into 2, namely those including non-monetary transactions and monetary transactions. Where the actions of illegal activities related to monetary transactions are the trade in illegal drugs, stolen goods, carrying out prostitution



activities, gambling, smuggling, fraud, piracy. According to (Schneider & Enste, 2000), in contrast to dealing with non-monetary transactions, namely exchanging illegal drugs, stolen goods, pirated goods, producing or growing illegal drug plants that are used alone. Legal activities in the underground economy can be divided into two criteria, namely Tax Evasion and Tax Avoidance.

According to (Dahlan, 2020), a country's economic activities are closely related to the shadow economy which is often referred to as the informal, parallel, or underground economy. The development of the underground economy in Indonesia can cause large state losses due to the loss of potential taxation (Samuda, 2016). Illegal economic activities that violate the law, it is certain that economic actors will try to avoid the legal apparatus in Indonesia. If you look at the underground economy which includes legal activities, then illegal activities are more risky regarding the loss of potential taxation in Indonesia (Mulyawan, 2017).

RESEARCH METHODS

This research method uses a library research approach, which collects data by understanding and reviewing theories from various literatures related to the topic (Adlini et al., 2022). According to (Fadli, 2021), literature study is a series of activities related to library data collection methods, reading, recording, and processing research materials. The literature research method is carried out by studying a number of literatures in the form of literature reviews, books, scientific journals, news in the mass media, applicable laws and regulations and others to obtain a theoretical basis for the problems to be discussed.

In this study, researchers used a qualitative method with a literature review issued by (Nizar & Purnomo, 2011) with the title potential of tax revenue from underground economy in Indonesia and (Mulyawan, 2017) with research on analysis of underground economy Indonesia and potential of tax revenue. The type of data used is secondary data. Secondary data is data obtained from various parties that are not directly obtained by researchers from the subject of their research. For example, various institutional reports, books, websites, scientific articles and some related regulations. The focus of data acquisition sources is credible journal publishers.

RESULTS AND DISCUSSION

Prostitution was, is and will always be controversial, localised or shut down. Life is always uncertain. Like a coin that has two sides, life also provides choices in the form of blessings or calamities, calm or dark, positive or negative. The rampant prostitution business is no exception. Not only once, we are often presented in various media such as television, newspapers, and even social media that endlessly discuss the world of this prostitution business.

Prostitution is considered a form of disease in society that is difficult to detect and especially eradicate, because this activity will always be present in the elements of society itself. In its existence, this prostitution activity develops along with the development of technology in society. In line with the fast pace of technological development, the more sophisticated the media used for transactions between actors (Rahmaini & A Zahid, 2020).

In the development of technology, online applications have emerged, which are actually used as a means of communication between communities. But now sometimes it has switched to being used as a transaction communication tool for prostitutes and activists of these services. The perpetrators of prostitution economic activities sell themselves as a form of "pleasure" media through online media which is more practical and efficient because it can reach the public at large (Sukardi et al., 2023). In addition to being practical and efficient and safe from law enforcement, users of sex work services also benefit from the presence of this online application because they can easily access to communicate with these economic actors without searching and dat directly to the service seller.



Behind the negative face, who would have thought that this business is very profitable for various parties. Commercial sex workers (CSWs), pimps, and even the surrounding community benefit from this prostitution business. The sales of neighbouring merchants increase along with this prostitution business. Symbiotic mutualism has been established in all elements of society, psk and pimps in localisation places. A little review some time ago reported by (Liputan6.com, 2021), of course we still remember the case revealed in the television media which said that the price for "snacks" for an artist alone reached 70 million.

Seeing the phenomenon, the government should be able to see the benefits of the business. We have known since the beginning that tax does not distinguish between halal or haram. Even in Law Number 36 of 2008 concerning income tax there is also no limitation between halal or haram activities, it is only stated that every additional economic capacity in any form received or obtained by the taxpayer.

Based on the Income Tax Law, in general, tax is designed by not recognising assets obtained from legal activities, and from illegal activities, no matter whether the income is obtained from corruption, prostitution, human trafficking, illegal arms trade and even narcotics. As long as it is known that there is an increase in income or enjoyment, the state has the right to collect taxes.

In the page (Kumparan.com, 2021) states that Havocscope, an institution that records black market activities, in 2020, stated that the average income earned by commercial sex workers (PSK) in Indonesia reached IDR 11 million to IDR 16 million per month. The same thing was stated by Moammar Emka, he added that the estimated business turnover of prostitution economic activities in Indonesia reached Rp24 trillion per year. Obviously this price is very fantastic when compared to the salary of an office employee in general.

With the large economic turnover in the prostitution business, a polemic arises, that with this phenomenon, the Directorate General of Taxes (DGT) should explore the tax potential of the prostitution business. If indeed the DGT explores the prostitution sector, it can use tax regulations such as Government Regulation No. 5 of 2022 concerning Adjustment of Regulations in the Income Tax Sector, namely the application of 0.5% Final Income Tax for Taxpayers with Certain Gross Circulation. So if it is simulated by the phenomenon reported on the page (detik.com, 2023) that a sex service provider earns IDR 50 million a month. So that if it is annualised to IDR 600 million, keep in mind this is a simulation in one service, of course with 2-4 times the service, the income earned will also increase and exceed IDR 600 million. This can illustrate that there is great potential to increase state revenue. In addition, DGT has the duty and function to socialise tax obligations to these business activists, for example DGT socialises to have NPWP (Taxpayer Identification Number). However, considering that the prostitution business is an illegal act, the potential excavation that will be conducted by DGT raises a problem from the tax collection institution and the society in Indonesia. DGT does have the power to tax prostitutes and other chains, but this will make DGT think twice or even thousands of times to dare to accept the statement of the society that mentions "financing the country from illicit money".

The fact on the ground is that there is no statement that the Directorate General of Taxes (DGT) held a massive socialisation on NPWP ownership in those business centres. Even though if it is done, it can make an advantage for the DGT itself. The socialisation will explain how the government finances health insurance for them and in the end, the economic activists of the sex work business can pay taxes. Even the DGT employees themselves have not mapped the underground economy sector.

In this case, DGT needs to coordinate with the local government or even all elements of society regarding the continuation of the business. It will not be able to be eliminated directly



and may never disappear, but with the collaboration of all elements, it can shift the stigma that to get sustenance does not have to be in an illegal way.

It is true that the sex business is very lucrative and has a fantastic economic turnover. But if we look at another point of view, there will be no one who dares to admit to illegal business to the government. Prostitution is one of the illegal businesses in Indonesia (Yanto, 2018). They are trying to avoid existing regulations including tax evasion to create their own circle of games without any government intervention. The Underground Economy is indeed on the rise. In the world of taxation, this sector is a sector that is difficult to tax.

When viewed from a health perspective, the underground economy, especially prostitution, has a negative effect on users and service providers. Considering the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), which until now has not found a cure. The DGT does have the right to tax prostitutes, but can the proceeds cover the health care needs of the people in the localisation?

In terms of education and morals, this activity will lead to the destruction of the nation's morals in the future. What if children who are not old enough live in the neighbourhood? Who will guarantee that their morals will be fine? This needs to be looked into by the government. Because they are the ones who will continue the relay of the Indonesian government in the future.

However, if seen from another perspective, this prostitution activity is a positive thing for the neighbourhood (Suryadi, 2011). This positive thing is the development of the economy around the centre of these activities. This is also supported by the crowded service users, so that other economic activities will also be crowded, such as an increase in sales of surrounding stalls, even if on certain nights it will increase income from hotel or boarding house rentals. Local governments can also increase local tax revenues with the existence of prostitution activities which indirectly have a positive effect on other sectors in the region. One of them is the existence of discotheques and massage parlours In Law 1 of 2022 concerning (Financial Relations Between the Central Government and Local Governments, 2022) it is stated that there is an increase in local tax collection rates, especially in the entertainment services sector, namely discotheques. There is even a phenomenon reported in (Media Indonesia, 2024) stating that one city, Cirebon, raised the entertainment tax by 50%. This can increase local revenue that is indirectly affected by the existence of the business.

In the end, there is a polemic that there is a tradeoff for the DGT to tax prostitution, which has a fantastic turnover of money. Taxing prostitution indicates that prostitution is legal in Indonesia, just like alcoholic beverages are subject to excise. However, the opportunity cost that must be paid is high with the loss of the nation's morals.

CONCLUSIONS

Prostitution business does have a huge potential. Mathematically, exploring the potential of this business if done massively will increase tax revenue quite significantly, but DGT must also use the moral point of view prevailing in society. Imposing tax on something illegal and immoral will indirectly give the public the opinion that the state legalises the activity.

The saying goes, If a crime cannot be eliminated, it does not mean that the crime should be legalised. There is a very high price to be paid by the DGT if it has to tax the prostitution business. Indeed, this prostitution activity will not be visible to the naked eye because the perpetrators are very integrated with the community. If the DGT still wants to map the prostitution business, it can be rethought in relation to the nation's goals and social morals. Many negative things will be felt, one of which is the spread of HIV which is increasingly uncontrollable if it is forced by the existence of taxation rules related to prostitution tax which will lead to the opinion of legalising prostitution. In this case, the local government can carry



out socialisation of positive work and provide other employment opportunities to these business activists. This is expected to indoctrinate the business activists who initially made prostitution their main job to shift to other positive things that do not violate state regulations.

In theory, taxes have a regular function, such as regulating liquor consumption by imposing high taxes, but not for things that can damage morals and health in this prostitution business.

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