

## Comparative Business Law Perspectives on the Digital Excise Stamp Regime for Tobacco Products: Regulatory Lessons from Indonesia and the United States

Carl Augustinus Hothinca Soutihon Tampubolon<sup>1</sup>, Rosa Agustina<sup>2</sup>, Ningrum Natasya Sirait<sup>3</sup>, Budiman Ginting<sup>4</sup>, Dinara F. Abdunayimova<sup>5</sup>

<sup>1,3,4</sup>Universitas Sumatera Utara, Indonesia

<sup>2</sup>Universitas Indonesia, Indonesia

<sup>5</sup>University of Illinois College of Law, United States of America

\*Corresponding Author: [carl.tampubolon@gmail.com](mailto:carl.tampubolon@gmail.com)

### Abstract

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The implementation of digital excise stamps on tobacco products can no longer be viewed as an option, but rather as a strategic necessity in responding to the dynamics of modern business and the demands of the digital age. This study aims to analyze the implementation of digital excise stamps on tobacco products by comparing policies in Indonesia and the United States from a business law perspective. This study employs a normative legal research approach, incorporating conceptual, legislative, and comparative legal perspectives. The research results confirm that in Indonesia, implementation is centralized with national data integration through regulations from the Directorate General of Customs and Excise, while in the United States, the policy is decentralized with variations between states. Despite having different approaches, both countries emphasize business law principles such as certainty, transparency, utility, and fairness in the implementation of this system. The study results indicate that the harmonization of technology and regulation is key to the effectiveness of digital excise stamps, alongside challenges related to infrastructure readiness and the education of business owners. This comparison makes a significant contribution to the development of policies that are adaptive, efficient, and responsive to digital transformation in the excise sector, while also supporting fiscal and public health goals within a sustainable business legal framework.

## 1. Introduction

Excise is a very important fiscal instrument for a country because it plays a strategic role in increasing state revenue without directly burdening the public through general taxes. The main function of excise is as a source of state revenue that can be allocated to finance development, provide public services, and strengthen national economic stability.<sup>1</sup> In addition, excise also serves as a control tool over the consumption of certain goods that can hurt public health or the environment, such as cigarettes, alcoholic beverages, and products that are considered harmful.<sup>2</sup> By levying excise duties on these goods, the state can reduce consumption levels that could potentially lead to significant social costs in the future, such as high healthcare burdens due to chronic diseases or environmental damage. Furthermore, excise policy also reflects social justice because goods considered luxurious or high-risk are

<sup>1</sup> Jürgen Rehm et al., "Alcohol Excise Taxation, Tax Share and Revenue in the European Union and the United Kingdom in 2022: An Overview and Modelling Analysis," *Drug and Alcohol Review* 1, no. 1 (August 28, 2025): 3–5, <https://doi.org/10.1111/dar.70028>.

<sup>2</sup> Lenny Lenny, "Maximizing Revenue: An in-Depth Analysis of Tobacco Excise, Ethyl Alcohol Excise, and Excise Revenue," *Owner* 8, no. 4 (October 1, 2024): 4426–35, <https://doi.org/10.33395/owner.v8i4.2349>.

subject to higher rates, thus making the fiscal burden more proportional to the public's capacity and consumption impact. In the context of budget management, excise becomes a flexible and efficient instrument because its revenue is relatively stable even during times of economic uncertainty, thereby helping the government maintain the continuity of state finances.<sup>3</sup> Therefore, effective and transparent excise management is crucial to ensure that the funds obtained can be utilized optimally for the welfare of the people and sustainable national development, while maintaining a balance between fiscal, social, and environmental interests. Thus, excise is not just a tax on certain goods, but rather an important pillar in the governance of state finances that supports economic stability and social justice.

Some goods that are generally subject to excise are products that have significant social, economic, or health impacts, so their use needs to be controlled by the government, among which the most common are tobacco, alcoholic beverages, and energy products such as fuel.<sup>4</sup> Tobacco, as one of the most frequently excised goods, is a primary concern because its consumption is directly related to various public health problems, such as lung cancer, heart disease, and respiratory disorders, which not only burden individuals but also the national healthcare system.<sup>5</sup> The government levies excise duties on tobacco products with two main objectives: to reduce consumption rates due to the high health risks involved, and to generate state revenue that can be used to finance health programs, education, and prevention campaigns. In addition, the application of excise on tobacco is also part of a policy to control the use of harmful consumer goods, which is in line with efforts to protect the public from easily falling into dangerous habits.<sup>6</sup>

Tobacco excise plays a strategically important role for both developing countries like Indonesia and developed countries like the United States, because its function is not only as a source of state revenue, but also as a tool for controlling the consumption of products that have a negative impact on public health. In developing countries like Indonesia, tobacco excise is a significant backbone of state revenue, including to support revenue-sharing funds used for public welfare, health programs, and law enforcement related to tobacco control.<sup>7</sup> Revenue from tobacco excise in Indonesia is allocated not only to finance national development but also specifically to finance health programs such as the National Health Insurance (JKN) and campaigns to reduce cigarette consumption, thus providing great social added value in

<sup>3</sup> Aqian Hu et al., "The Effects of Alcohol Tax Policies on Alcohol Consumption and Alcohol Use Disorders in Mainland of China: An Interrupted Time Series Analysis from 1961–2019," *The American Journal of Drug and Alcohol Abuse* 49, no. 6 (November 2, 2023): 746–55, <https://doi.org/10.1080/00952990.2023.2280948>.

<sup>4</sup> Ce Shang, Anh Ngo, and Frank J. Chaloupka, "The Pass-through of Alcohol Excise Taxes to Prices in OECD Countries," *The European Journal of Health Economics* 21, no. 6 (August 31, 2020): 855–67, <https://doi.org/10.1007/s10198-020-01177-w>.

<sup>5</sup> Warit Aziz et al., "Implications of Excise Rates on Tobacco Products on The Rise of Illegal Cigarettes," *Justitia Jurnal Hukum* 9, no. 1 (February 16, 2025): 2–4, <https://doi.org/10.30651/justitia.v9i1.22956>.

<sup>6</sup> Wahyu Hidayat Rianto et al., "Maximizing Government Revenue: The Search for the Optimal Cigarette Excise Rate in Indonesia," *Journal of Revenue and Pricing Management* 24, no. 4 (August 1, 2025): 393–400, <https://doi.org/10.1057/s41272-025-00520-1>.

<sup>7</sup> S. P. Sarjana and V. Adrison, "The Impact of Multi-Tiered Specific Excise Tax Systems on the Creation of New Tobacco Brands in Indonesia: Public Health Implications," *Journal of Tax Reform* 10, no. 2 (2024): 397–416, <https://doi.org/10.15826/jtr.2024.10.2.175>.

dealing with the health burden resulting from tobacco consumption.<sup>8</sup> On the other hand, tobacco excise functions to reduce consumption, especially among communities with low purchasing power, while also suppressing the prevalence of chronic diseases that have a major impact on national productivity and public health financing. Meanwhile, developed countries like the United States also apply tobacco excise as a dual instrument, namely in addition to fiscal revenue, also for very strict public health policies to reduce smoking rates and the detrimental effects of tobacco on public health and the health system.<sup>9</sup> Tobacco excise policy in developed countries is usually accompanied by other regulations such as advertising bans and intensive campaigns, making it effective in reducing consumption. Therefore, tobacco excise is an essential policy instrument in the framework of sustainable development in both developing and developed countries, because it is able to balance fiscal needs while internalizing the negative external costs of tobacco consumption for the health and welfare of the nation in general. Thus, tobacco excise is a multifunctional public policy tool, the success of which depends on policy firmness, law enforcement, and public awareness.

In Indonesia, the tobacco excise revenue survey shows an important trend from 2022 to 2025 that reflects the significant role of tobacco excise in state funding as well as the challenges of controlling cigarette consumption. In 2022, state revenue from tobacco excise reached approximately IDR 218.6 trillion, which was the largest contributor in the excise sector and helped finance various development and public health programs.<sup>10</sup> In 2023, the realization of tobacco excise revenue decreased by approximately 2.23% to IDR 221.83 trillion, which was influenced by a decrease in cigarette production and low realization rates, even though the government raised the average excise rate by 10% that year as an effort to control consumption.<sup>11</sup> In 2024, tobacco excise revenue was recorded at IDR 216.9 trillion, slightly down from the previous year, but the tobacco industry remains a pillar of the national economy with significant employment absorption, namely around 5.98 million people.<sup>12</sup> Entering 2025, first-quarter data shows tobacco excise revenue of IDR 55.7 trillion, with a growth of 5.6 percent compared to the same period the previous year, although accompanied

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<sup>8</sup> Harvensica Gunnara et al., "Tobacco Tax Policy and Its Impact on Health Finance in Different Countries: A Systematic Review," *Journal of Health Sciences and Epidemiology* 2, no. 2 (August 29, 2023): 63-76, <https://doi.org/10.62404/jhse.v2i2.44>.

<sup>9</sup> Yanyun He et al., "The Association between Excise Taxes and Smoking and Vaping Transitions—Findings from the 2016–2020 ITC United States Surveys," *International Journal of Drug Policy* 126, no. 1 (April 2024): 104372, <https://doi.org/10.1016/j.drugpo.2024.104372>.

<sup>10</sup> Dendi Siswanto, "Penerimaan Cukai Hasil Tembakau Tembus Rp 218 Triliun Pada 2022," 2023, [https://newssetup.kontan.co.id/news/penerimaan-cukai-hasil-tembakau-tembus-rp-218-triliun-pada-2022#:~:text=Direktorat Bea Cukai Kementerian Keuangan \(Kemenkeu\) melaporkan,No.98 Tahun 2022 sebesar Rp 209%2C91 triliun.](https://newssetup.kontan.co.id/news/penerimaan-cukai-hasil-tembakau-tembus-rp-218-triliun-pada-2022#:~:text=Direktorat Bea Cukai Kementerian Keuangan (Kemenkeu) melaporkan,No.98 Tahun 2022 sebesar Rp 209%2C91 triliun.)

<sup>11</sup> Wienneta Aulia Hajar, "Penerimaan Cukai Hasil Tembakau Menurun, Sri Mulyani Ungkap Faktor Penyebabnya," 2023, <https://konsultanpajak-surabaya.com/penerimaan-cukai-hasil-tembakau-menurun-sri-mulyani-ungkap-faktor-penyebabnya#gsc.tab=0>.

<sup>12</sup> Firdaus Baderi, "Kontribusi Cukai Rokok 2024 Capai Rp 216,9 Triliun," 2025, <https://www.neraca.co.id/article/225942/wamenperin-faisol-riza-kontribusi-cukai-rokok-2024-capai-rp-2169-triliun.>

by a production decrease of 4.2 percent.<sup>13</sup> Overall, until July 2025, the realization of tobacco excise revenue was recorded to have increased to IDR 121.98 trillion, up 9.6% compared to the previous year, but this increase was more influenced by technical administrative factors related to excise stamp payment regulations rather than an increase in real consumption.<sup>14</sup> This tobacco excise revenue survey shows that although tobacco excise revenue is very important for the Indonesian state budget, fiscal policy must be balanced with efforts to control cigarette consumption for the sake of public health and economic sustainability.

Tobacco excise revenue in the United States from 2024 to 2025 experienced dynamics that reflect the trend of reduced cigarette consumption as well as the influence of tobacco tax policies at the state and federal levels. In 2024, total revenue from tobacco excise in the US reached approximately 9.38 billion US dollars, slightly down compared to previous years which reached approximately 10.3 billion US dollars in 2023.<sup>15</sup> This decline is expected to continue in the coming years due to a significant decrease in cigarette consumption, along with policies to increase excise rates in many states and the strengthening of anti-smoking regulations that have influenced the reduction of cigarette sales. In fiscal year 2025, estimated cigarette excise revenue in the states is expected to decrease by about 6% compared to the previous year, with some states recording sharper declines due to changes in consumption patterns and increased excise rates. The average cigarette excise at the state level as of July 1, 2025, reached approximately \$2.01 per pack, plus a federal excise of \$1.01 per pack.<sup>16</sup> The revenue obtained by state and federal governments from this excise can be used for various public health programs, health subsidies, and tobacco control campaigns aimed at lowering the prevalence of smokers, especially among adolescents. Despite the decrease in revenue, tobacco excise remains an important source of revenue for the US government as well as a policy tool to control public health through the effective reduction of tobacco product consumption. Thus, tobacco excise revenue in the US during 2024-2025 shows that fiscal policies combined with public health goals can provide dual benefits, namely state revenue and reduced public health risks.

From the description above, this study aims to analyze the implementation of digital excise stamps on tobacco products by comparing policies in Indonesia and the United States from a business law perspective. This is because the increasingly massive development of technology and business law with digitalization makes the application of digital excise stamps on tobacco products important. In addition, efforts to compare policies in Indonesia and the United States regarding the application of digital excise stamps on tobacco products are an effort to compare legal policies regarding the application of digital excise stamps between developing countries, especially in Indonesia, and the United States, which is a developed

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<sup>13</sup> Adil Al Hasan, "Penerimaan Pajak Tembakau Capai Rp 55,7 Triliun Pada Kuartal I 2025," 2025, <https://www.tempo.co/ekonomi/penerimaan-pajak-tembakau-capai-rp-55-7-triliun-pada-kuartal-i-2025-1374369>.

<sup>14</sup> Hasan.

<sup>15</sup> Nigar Nargis, "Healthy People Countdown 2030: Reaching 5% Cigarette Smoking Prevalence among US Adults through State Cigarette Excise Tax Increases," *Tobacco Control* 32, no. 3 (May 2023): 388–92, <https://doi.org/10.1136/tobaccocontrol-2021-056755>.

<sup>16</sup> Nargis.

country. There are two legal issues that are the focus of analysis in this study, namely: (i) the urgency of implementing digital excise stamps on tobacco products from a business law perspective, and (ii) a legal comparison of digital excise stamp policies on tobacco products: a comparison between Indonesia and the United States from a business law perspective.

Similar research on tobacco product excise duties has essentially been conducted by several previous studies, including Lito et al.'s (2024) research, which analyzed the testing of innovation diffusion theory in the context of excise automation in developing countries, enriching the understanding of the stages of digital system innovation adoption by import businesses.<sup>17</sup> This finding not only supports practical recommendations for the Kenya Revenue Authority (KRA) to enhance the automation of excise duty registration, reporting, and payment, but also opens up opportunities for comparison with other country contexts, such as Indonesia, where similar challenges in cigarette excise duty compliance remain relevant. Another study was conducted by Chepizhak (2025), who analyzed formal-legal, statistical, and comparative aspects to identify regulatory gaps in the circulation of excisable goods in Ukraine, specifically the inadequacy of environmental regulations leading to ecological risks and non-compliance with European standards.<sup>18</sup> This study comprehensively reveals the increase in illegal tobacco trade from 2% (2017) to 17.8% (2022), accompanied by a threefold decrease in penalties, and a lack of transparency in administrative oversight that fuels corruption. Further research was also conducted by Wanjohi et al. (2025), which discussed the Theory of Ability to Pay and the Theory of Innovation Diffusion to explain the effectiveness of electronic monitoring in overcoming low compliance rates in the Excise Goods Management System.<sup>19</sup> The main contributions are innovative policy recommendations such as investing in integrated real-time tracking systems (GPS and RFID) for high-risk goods, as well as mandatory electronic cargo monitoring for transit goods to prevent diversion and smuggling at borders. From the three previous studies mentioned above, none specifically addressed excise stamps on tobacco products, particularly with a legal comparison, making this study original.

## 2. Methods

This research, focusing on the analysis of the implementation of digital excise stamps on tobacco products by comparing policies in Indonesia and the United States from a business law perspective, is a normative legal research.<sup>20</sup> As a normative legal research, it involves doctrinal legal analysis with reference to legal principles, theories, and concepts related to

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<sup>17</sup> Pauline Talaso Lito, Bruce Ogaga, and John Tarus, "Effect of System Automation on Excise Duty Compliance among Cigarettes Importers in Kenya," *Journal of Finance and Accounting* 4, no. 1 (May 20, 2024): 28–37, <https://doi.org/10.70619/vol4iss1pp28-37>.

<sup>18</sup> Dmytro Chepizhak, "Administrative and Legal Regulation and the Challenge of Ensuring Compliance with Environmental Standards in the Production and Circulation of Excise Goods," *Law. Human. Environment* 16, no. 3 (September 23, 2025): 136–59, <https://doi.org/10.31548/law/3.2025.136>.

<sup>19</sup> Laura Wanjohi, Neddy Soi, and Doris Gitonga, "Effect of Electronic Monitoring on Excise Duty Compliance Among Cigarette Importers in Nairobi County, Kenya," *Journal of Finance and Accounting* 5, no. 11 (December 1, 2025): 65–76, <https://doi.org/10.70619/vol5iss11pp65-76-708>.

<sup>20</sup> Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia: Its Origins And Approaches," *ACLJ* 4, no. 1 (2023): 5.

digital excise stamps on tobacco products.<sup>21</sup> The approaches used are comparative, conceptual, and statutory approaches. The primary legal materials used are various laws and regulations governing digital excise stamps on tobacco products in Indonesia and the United States. The secondary legal materials used include journal articles, books, and research results that discuss business law and digital excise stamps on tobacco products. Non-legal material is a legal dictionary. The analysis of legal materials is carried out based on prescriptive analysis, where existing legal materials are analyzed and adapted to legal issues to then formulate a legal prescription.<sup>22</sup>

### 3. Results and Discussion

#### 3.1. The Urgency of Implementing Digital Excise Stamps on Tobacco Products from a Business Law Perspective

Excise is a part of taxes levied by the government specifically on certain goods that have specific characteristics or properties that allow for consumption control due to their potential negative impact on society or the environment.<sup>23</sup> As part of taxation, excise must be regulated by statute to ensure legal certainty and enforceable compliance obligations.<sup>24</sup> In contemporary business law theory, excise is more accurately conceptualized as a form of regulatory taxation (sin tax) aimed at correcting market failure and internalizing external costs not reflected in market prices. Unlike general taxes, excise is imposed selectively on products such as cigarettes and alcohol because these goods generate structural risks within regulated markets.<sup>25</sup> Therefore, excise functions not merely as a fiscal extraction tool but as an instrument of market governance embedded in risk-based regulatory frameworks. The imposition mechanism thus represents structured legal intervention in high-risk sectors of the economy.

The historical development of excise across civilizations, including pre-colonial Indonesia, colonial administration, Europe, and the United States, demonstrates its long-standing function in state finance and trade control. However, the legal relevance of this historical trajectory lies in illustrating the transformation of excise from a purely revenue-oriented levy into a regulatory instrument embedded in administrative and business law systems. As markets expanded and cross-border trade intensified, excise became institutionalized within structured compliance regimes.<sup>26</sup> This evolution reflects the shift toward risk-based governance, where excise is used to supervise industries capable of

<sup>21</sup> Maalikussofa Masnun, Muh. Ali, Prasetio, Dicky Eko, "Reconstruction of the Normative Legal Research Paradigm in Responding to Global Challenges: An Epistemological Analysis," *Novum: Jurnal Hukum* 12, no. 3 (2025): 372–84, <https://doi.org/https://doi.org/10.2674/novum.v12i03.74364>.

<sup>22</sup> Masnun, Muh. Ali, Prasetio, Dicky Eko.

<sup>23</sup> Murwendah Murwendah, Tasya Dinasari Salsabila, and Ismail Khozen, "To Rule or Not to Rule? The Policy Process of the Excise Tax on Sugar-Sweetened Beverages in Indonesia," *International Journal of Health Governance* 29, no. 4 (November 22, 2024): 356–76, <https://doi.org/10.1108/IJHG-09-2023-0091>.

<sup>24</sup> Muh. Ali Masnun, Dicky Eko Prasetio, Eny Sulistyowati, Mohd Badrol Awang, "Reconstructing Indonesia's Trademark Registration System through the Lens of General Principles of Good Governance to Realize Substantive Justice," *Journal of Law and Legal Reform* 5, no. 3 (2024): 891–912.

<sup>25</sup> Riyan Andriyanto and Ima Mayasari, "Excise Policy on Sugar-Sweetened Beverages: A Step Towards Indonesia's Future," *International Journal of Economics, Business and Management Research* 09, no. 02 (2025): 50–59, <https://doi.org/10.51505/IJEBMR.2025.9205>.

<sup>26</sup> D. G. Stoilova, "Tax Structure and Economic Growth: New Empirical Evidence from the European Union," *Journal of Tax Reform* 10, no. 2 (2024): 240–57, <https://doi.org/10.15826/jtr.2024.10.2.167>.

generating social and economic harm. Consequently, the maturation of excise regimes logically requires more sophisticated monitoring mechanisms. This historical evolution therefore, normatively justifies the adoption of technology-based systems such as digital excise stamps.

Excise is necessary for certain products because it has a dual function that is very important for a country, namely as a source of state revenue and as a tool for social control and public health. Products subject to excise are generally goods that, if consumed excessively, can have serious negative impacts, such as disease, social disruption, and environmental damage. This makes excise an effective public policy instrument to reduce the consumption of these products by increasing their selling prices, so that people are encouraged to reduce or even avoid their use. Examples include tobacco products, alcoholic beverages, and fossil fuels, which not only have potential health hazards but also significant ecological impacts. In this way, excise acts as an economic disincentive while helping to cover the social and health costs arising from the consumption of these products. In addition, excise also has an important role in balancing the competitiveness of domestic industries and regulating the distribution of certain products so that they are not excessive in the market, so as to protect certain community groups and local industries. Therefore, the parameters or characteristics of products subject to excise in various countries usually include aspects of health, social morality, and adverse environmental impacts, which, if regulated only by general taxes, are considered less effective.

Excise on tobacco products must be understood within the framework of regulatory taxation theory. Under the sin tax doctrine, the state imposes excise not only to raise revenue but to correct allocative inefficiencies caused by negative externalities and addictive consumption patterns. Cigarette markets do not operate under conditions of perfect competition because social costs are externalized to the broader community. In business law analysis, this constitutes a form of market failure that legitimizes state intervention to restore competitive equilibrium. Excise therefore, acts as a corrective pricing mechanism that internalizes social costs into production expenses. Digital excise stamps, within this theoretical framework, operate as enforcement instruments ensuring that corrective taxation is effectively and uniformly applied.

From a business law perspective, the primary issue is not solely public health but market distortion. Illegal cigarettes evade excise obligations, enabling illicit actors to avoid compliance costs. This creates structural unfair competition because compliant manufacturers bear higher production and regulatory costs while illegal traders benefit from unlawful price advantages. Such distortion undermines the principle of a level playing field and weakens competitive neutrality. The resulting imbalance damages market integrity and erodes consumer trust in regulated commercial environments. Therefore, excise enforcement must be viewed as a mechanism to safeguard fair competition and prevent anti-competitive market practices.

Excise stamps on tobacco products have a very important and strategic role in the taxation and supervision system of excisable goods, especially cigarettes, because excise stamps not only function as a valid proof of excise payment but also as a very effective control and supervision instrument for the government in suppressing the circulation of illegal

cigarettes and tobacco products that do not meet legal requirements.<sup>27</sup> Under the manual stamp regime, legal uncertainty arises due to high counterfeiting risks that complicate evidentiary proof in enforcement proceedings. Disputes frequently occur between producers and authorities regarding stamp authenticity and tariff classification. Moreover, physical stamps provide limited traceability across the supply chain, creating compliance gaps and audit weaknesses. These deficiencies increase compliance risk for lawful businesses and enforcement risk for regulators.<sup>28</sup> The limited evidentiary reliability of manual stamps weakens enforceable compliance and exposes firms to reputational and contractual risks.

The application of digital excise stamps on tobacco products is an important part of the development of the times, especially in the era of digitalization that is increasingly influencing various aspects of life and governance. With the increasing complexity of challenges in the supervision and control of tobacco products, including the rampant circulation of illegal cigarettes that harm state revenue and endanger consumers, governments in several countries, including Indonesia, have begun to adopt digital technology in the design and implementation of excise stamps.<sup>29</sup> In addition to functioning as a legitimate proof of excise payment, this digital excise stamp also integrates information technology-based security features such as QR codes, dynamic holograms, and integrated data that facilitate the process of verifying product authenticity quickly and accurately by officers and the public through digital devices. By integrating QR codes, serialized identification numbers, and centralized databases, digital systems enhance evidentiary standards and strengthen auditability. Real-time verification reduces ambiguity regarding stamp validity and compliance status. This lowers compliance risk for legitimate producers while simultaneously reducing enforcement risk through more reliable digital documentation. Digital traceability also clarifies the chain of liability among manufacturers, distributors, and retailers. Consequently, digital excise stamps function as legal instruments that transform compliance obligations into verifiable and enforceable duties.

This strengthens the effectiveness of supervision because digital excise stamps are not only difficult to falsify, but also allow real-time tracking of product distribution flows, thereby minimizing leakage and misuse of excise that has been an obstacle in the manual system. In this digital era, the use of digital excise stamps also accelerates the transparency of excise administration, facilitates data integration between producers, distributors, and government agencies, thereby increasing the accountability of state revenue. The use of digital technology on excise stamps is an adaptive response to changing times to increase the effectiveness of fiscal policy, consumption control, and consumer protection in line with global technological advances. Thus, the application of digital excise stamps on tobacco products not only strengthens excise management from a fiscal perspective but also becomes a strategic tool in

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<sup>27</sup> Warit Aziz, "Legal Issues in the Implementation of Excise Tariffs on Cigarette Companies in Madura," *Trunojoyo Law Review* 6, no. 1 (February 29, 2024): 120–41, <https://doi.org/10.21107/tlr.v6i1.23227>.

<sup>28</sup> Sofia Delipalla et al., "The Introduction of Tobacco Excise Taxation in the Gulf Cooperation Council Countries: A Step in the Right Direction of Advancing Public Health," *BMC Public Health* 22, no. 1 (December 13, 2022): 737, <https://doi.org/10.1186/s12889-022-13190-0>.

<sup>29</sup> Shibaji Gupta and Sharmistha Sinha Gupta, "Tobacco Control Initiatives: Current Scenario and SWOT (Strengths, Weaknesses, Opportunities and Threats) Analysis," *Discover Public Health* 22, no. 1 (August 20, 2025): 488, <https://doi.org/10.1186/s12982-025-00889-9>.

combating illegal cigarettes and supporting more effective public health programs in today's digital era.

The application of digital excise stamps on tobacco products is considered a more effective, efficient, and practical step when viewed from a business law perspective, given the demands of the era of digitalization that increasingly dominates the flow of trade and modern tax administration. From a business law point of view, the application of this digital system is in line with the principle of legal certainty which requires every business actor to obtain clear and transparent rules in terms of fulfilling excise obligations, so that the risk of disputes and uncertainty can be minimized through technology that provides integrated and real-time data. In addition, the principle of benefit is also fulfilled because the use of digital excise stamps simplifies the process of verifying the authenticity of tobacco products, speeds up administration, and reduces the burden of bureaucracy, which means providing direct benefits to business actors in terms of saving time and operational costs. From the aspect of the principle of openness in business law, digital excise stamps increase transparency in the trade of tobacco products, facilitate government supervision and related parties so as to create fairness and healthy business competition. The application of this digital technology also accommodates the principle of justice, because digital excise stamps are able to clearly distinguish between legal and illegal products, providing fair treatment for business actors who comply with the rules and protecting consumers from products that do not meet standards. Furthermore, the application of digital excise stamps not only reflects the adaptation of business law to the development of information technology, but also strengthens fiscal governance and tax compliance which are the foundation for business continuity and national development. Therefore, given its connection with the basic principles of business law such as legal certainty, benefit, openness, and justice, the application of digital excise stamps on tobacco products is not only appropriate but also a necessity in the era of digitalization to answer modern business challenges and support effective regulations in the management of excise and the protection of a fair market.

Between Indonesia and the United States reveals different regulatory architectures. Indonesia applies a centralized excise regime with a physical-digital hybrid stamp system under unified administrative authority. This structure enables consistent compliance monitoring and coordinated enforcement. In contrast, the United States employs a decentralized federal-state dual system in which excise enforcement responsibilities are distributed across multiple jurisdictions. While this model allows regulatory flexibility, it may create variations in enforcement intensity and compliance supervision. These structural differences reflect alternative approaches to balancing administrative control and regulatory autonomy.

The differing regulatory architectures also influence risk exposure. In a centralized system such as Indonesia's, compliance risk is mitigated through uniform standards and integrated databases, but enforcement risk may arise if administrative capacity is insufficient. Conversely, the decentralized U.S. system distributes enforcement risk across federal and state levels, potentially reducing concentration risk but increasing coordination challenges. Compliance risk in decentralized systems may vary depending on state-level enforcement rigor. Therefore, digital excise technologies serve as risk-management tools designed to reduce

both compliance uncertainty and enforcement fragmentation. Effective excise governance requires minimizing regulatory arbitrage and closing supervision gaps across jurisdictions.

Digital excise stamps also have significant implications for consumer protection. Consumers possess the right to accurate product information, including verification of authenticity and disclosure of regulated substance content. Illegal cigarettes frequently fail to meet production standards and may misrepresent packaging information. By enabling digital verification through QR-based authentication systems, consumers can independently confirm product legality and origin. This mechanism enhances transparency within the transaction process. Consequently, digital excise stamps function as verification mechanisms that safeguard transactional integrity and reinforce trust in regulated markets.

From a comprehensive business law perspective, the digitalization of excise stamps is not merely an administrative modernization. It represents a legal necessity grounded in regulatory taxation theory, fair competition principles, and risk-based compliance governance. Digital systems reduce legal uncertainty, strengthen evidentiary standards, and protect competitive neutrality. They also mitigate compliance costs disparities, prevent market distortion, and enhance consumer trust. By clarifying liability chains and improving auditability, digital excise stamps create enforceable compliance within the tobacco industry. Therefore, the urgency of implementing digital excise stamps lies fundamentally in securing legal certainty, preserving market integrity, ensuring fair competition, and establishing a transparent and enforceable regulatory framework in a high-risk regulated market.

### **3.2. A Legal Comparison of Digital Excise Stamp Policy on Tobacco Products: A Comparison between Indonesia and the United States from a Business Law Perspective**

The effort to compare policies in Indonesia and the United States regarding the application of digital excise stamps on tobacco products is an important step in understanding the dynamics of business law in excise management in developing versus developed countries. This comparison not only assesses the technical aspects of digital excise stamp implementation, but also looks at the regulatory parameters and legal frameworks applied in different contexts between the two countries. Indonesia can be characterized as adopting a Centralized Excise Compliance Model, whereas the United States operates under a Decentralized or Layered Governance Model in which excise authority is distributed across federal and state jurisdictions. This reconstruction shifts the focus from economic status to regulatory design and administrative structure. The appropriate legal yardsticks for comparison therefore include regulatory design, enforcement architecture, compliance mechanisms, and administrative accountability. Instead of merely describing different practices, the analysis must evaluate how each institutional model structures business obligations, allocates supervisory authority, and manages compliance risk. Such a framework allows the comparison to function as a doctrinal and administrative law inquiry rather than a descriptive policy inventory.

Excise for tobacco products has a very important role both in developed countries such as the United States and in developing countries such as Indonesia, because the function of excise is not only limited to being a source of state revenue, but also as an effective consumption control instrument in order to protect public health. In developed countries and

the global north such as the United States, tobacco excise is strictly enforced with high tax rates to reduce the rate of cigarette consumption which is the main cause of various chronic diseases and premature deaths.<sup>30</sup> This excise policy also aims to fund various public health programs related to the prevention and treatment of the adverse effects of tobacco. Similarly, in developing countries and the global south like Indonesia, tobacco excise is not only a very significant source of revenue for the state, even reaching around 95% of total excise revenue, but is also a major tool in controlling tobacco consumption, which is still very high, and suppressing the spread of illegal products.<sup>31</sup> The Indonesian government allocates a portion of the tobacco excise funds for the development of tobacco-producing regions as well as social and health programs aimed at improving the quality of life of the community and reducing the negative impact of cigarettes. Thus, excise on tobacco products in both global contexts demonstrates a balance between fiscal and social regulatory functions that must be carried out in conjunction to support sustainable national development. Furthermore, the management of tobacco excise in both categories of countries also faces similar challenges, such as the circulation of illegal cigarettes and the need to increase the effectiveness of supervision, which increasingly encourages the implementation of innovations like digital excise stamps as modern control technology. Overall, tobacco excise is important for both developed and developing countries not only in an economic and fiscal context but also as an essential public health policy instrument and market regulation to maintain a balance between the interests of the state, business actors, and the wider community.

From a business law perspective, the central issue concerns the structuring of compliance duties, licensing requirements, and contractual allocations of risk among manufacturers, distributors, and retailers. The use or non-use of valid excise stamps may trigger contractual risk, particularly where supply agreements require proof of lawful tax compliance as a condition of delivery or payment. Licensing risk also arises because failure to comply with excise stamp requirements may lead to suspension or revocation of production and distribution permits. Furthermore, illegal circulation creates market exclusion risk for lawful operators who face reputational damage or administrative sanctions. Digital excise stamps therefore influence the level playing field by reducing unfair competition and protecting compliant firms from structural disadvantages caused by illicit actors.

The digital excise stamp policy on tobacco products in Indonesia is comprehensively regulated in several laws and regulations which affirm the legality, implementation procedures, and sanctions for violations related to the use of digital excise stamps. One of the main regulations governing digital excise stamps is Law Number 39 of 2007 concerning Excise, specifically Articles 38 and 39, which grant authority to the government to regulate the procedures for imposing excise and the use of excise stamps, which can be in physical or digital form as a valid proof of excise payment. Subsequently, its implementing regulations are stipulated in Minister of Finance Regulation (PMK) Number 153/PMK.04/2022 concerning

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<sup>30</sup> Eric C. Leas et al., "Trends in Cigarette Consumption across the United States, with Projections to 2035," ed. Yuyan Wang, *Plos One* 18, no. 3 (March 13, 2023): e0282893, <https://doi.org/10.1371/journal.pone.0282893>.

<sup>31</sup> Yasmina Aziza Astri and Muhammad Yopan, "Digital Excise Stamps: Systematic Literature Review, Potensi Dan Tantangan Dalam Pemberantasan Rokok Ilegal Di Indonesia," *Owner* 9, no. 2 (April 25, 2025): 1383-1406, <https://doi.org/10.33395/owner.v9i2.2682>.

Procedures for Issuing and Using Electronic System-Based Tobacco Excise Stamps, which specifically regulates the mechanism for issuing digital excise stamps, registration systems, procedures for verifying stamp authenticity, and supervising the distribution of tobacco products using digital excise stamps. From a doctrinal perspective, this framework reflects a delegation of regulatory authority from statute to ministerial regulation, raising questions about the balance between legal certainty and regulatory rigidity. While delegation enables administrative flexibility and technological adaptation, it may also concentrate discretionary power within the executive branch. The mandatory use of digital excise stamps imposes differentiated compliance burdens, particularly affecting small and medium-sized tobacco manufacturers that may lack technological capacity compared to large-scale producers. This disparity highlights unequal compliance costs within the industry. Additionally, QR codes embedded in digital excise stamps must be analyzed under electronic evidence law to determine whether they qualify as legally admissible electronic documents in enforcement or judicial proceedings.

The digital excise stamp policy on tobacco products in the United States is regulated through regulations that are managed in a decentralized manner by each state, considering that the tax system in the United States places jurisdiction for managing tobacco excise at the state level. In general, almost all states in the United States require the use of excise stamps as proof of tobacco excise payment, with a number of states already adopting digital excise stamp technology that integrates high security technology, including QR codes and encrypted excise stamps. Although there is no single federal regulation that specifically regulates digital excise stamps, various tobacco excise tax provisions are scattered throughout state tax laws and regulations, such as in California, Illinois, and Massachusetts, which explicitly include the obligation to use digital excise stamps and reporting mechanisms.<sup>32</sup> These rules regulate the excise imposition mechanism, the use of digital excise stamps to reduce the circulation of illegal cigarettes, the procedures for verifying and tracking tobacco products, and sanctions for violations.

Many states implement tax stamp regimes with varying authentication technologies, but the absence of a single federal framework results in regulatory fragmentation. This decentralized structure allows local innovation but also produces legal inconsistencies across jurisdictions. Such fragmentation creates risks of regulatory arbitrage, cross-border leakage, and jurisdictional loopholes that may be exploited by illicit distributors operating between states with differing excise rates or enforcement intensity. Compliance risk in this system depends heavily on state-level enforcement capacity. While decentralized governance enhances flexibility, it simultaneously increases coordination challenges and potential enforcement gaps.<sup>33</sup>

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<sup>32</sup> Alex C Liber et al., "How Complete Are Tobacco Sales Data? Assessing the Comprehensiveness of US Tobacco Product Retail Sales Data Through Comparisons to Excise Tax Collections," *Nicotine and Tobacco Research* 26, no. 8 (July 22, 2024): 1103–7, <https://doi.org/10.1093/ntr/ntad214>.

<sup>33</sup> Megan C Diaz et al., "Effect of E-Cigarette Taxes on e-Cigarette and Cigarette Retail Prices and Sales, USA, 2014–2019," *Tobacco Control* 34, no. 1 (January 2025): 34–40, <https://doi.org/10.1136/tc-2022-057743>.

The digital excise stamp policies on tobacco products in Indonesia and the United States have significant similarities and differences, which reflect the legal, economic, and technological contexts in each country, as well as the challenges faced in managing tobacco excise. The similarity between the two lies in the main objective of implementing digital excise stamps, namely, increasing transparency, accountability, and supervisory effectiveness in combating the circulation of illegal cigarettes and optimizing state revenue from tobacco excise through advanced technologies such as QR Codes and digital tracking systems. Both Indonesia and the United States use digital excise stamps as a security tool to ensure product authenticity and facilitate the verification process for authorities and the public. However, the main difference is seen in the regulatory framework and the level of system centralization; in Indonesia, the digital excise stamp policy is centrally regulated by the Directorate General of Customs and Excise through regulations such as the Regulation of the Director General of Customs and Excise Number PER-12/BC/2022 which regulates the application of QR Codes on tobacco excise stamps, and is supported by a centralized application system for managing tobacco excise. Meanwhile, in the United States, the regulation of digital excise stamp implementation is decentralized and varies in each state, with each jurisdiction having its own rules regarding the use of excise stamps, reporting, and law enforcement that refer to the tax laws of each state.

The comparison between Indonesia's centralized model and the United States' decentralized system reveals a distinct legal trade-off within the architecture of business compliance. Indonesia's centralized regime ensures uniform formal legal certainty across the national territory; however, it simultaneously carries the risk of bureaucratic bottlenecks and institutional dependence on a single administrative authority. By contrast, the layered governance model adopted in the United States provides greater regulatory flexibility and localized adaptability, yet remains vulnerable to regulatory arbitrage and uneven compliance enforcement across jurisdictions. From a business law perspective, centralized systems tend to generate more predictable compliance costs due to regulatory uniformity, whereas decentralized frameworks may increase transaction costs as a consequence of fragmented and jurisdiction-specific regulatory requirements.

#### 4. Conclusions

The urgency of implementing digital excise stamps on tobacco products from a business law perspective cannot be seen as a mere option, but rather as a strategic necessity in responding to modern business challenges and the demands of the era of digitalization. The digital excise stamp system offers legal certainty through clear rules and a transparent excise payment mechanism, thereby minimizing the risk of disputes and legal uncertainty that have been obstacles in fulfilling excise obligations. By providing integrated data and real-time monitoring, this system fulfills the principle of openness that encourages the creation of a healthy business climate and fair business competition. In addition, the increased effectiveness and efficiency of administration and the system's ability to reduce fraud, such as excise stamp counterfeiting, strengthen the principle of benefit. The digital excise stamp system is also consistent with the principle of business law justice because it provides fair treatment for compliant business actors, while protecting consumers from illegal products. This adaptation of business law to technological advances not only strengthens fiscal governance and tax

compliance, but also contributes to sustainable national development. Therefore, the application of digital excise stamps on tobacco products is very urgent and relevant as a solid, effective, and appropriate business law regulatory instrument in supporting excise management and the protection of a fair market in the current era of digitalization.

A legal comparison of digital excise stamp policies on tobacco products between Indonesia and the United States from a business law perspective can be said that although both have the same goal in increasing transparency, accountability, and supervisory effectiveness against the circulation of illegal cigarettes and state revenue, digital excise stamp policies in Indonesia and the US have different characteristics according to the legal, technological, and socio-economic contexts of each country. In Indonesia, digital excise stamp regulations are centrally regulated by the Directorate General of Customs and Excise through the Regulation of the Director General of Customs and Excise Number PER-12/BC/2022 which provides a centralized system structure and national data integration, thus allowing for more comprehensive control, although facing challenges such as technology investment and infrastructure readiness in the regions. Meanwhile, in the United States, digital excise regulations are decentralized and vary between states with each jurisdiction regulating its own procedures for implementing digital excise stamps within the framework of state tax law, providing greater flexibility but also creating risks of supervisory inconsistencies and differences in law enforcement. From a business law perspective, both countries place the principles of legal certainty, openness, benefit, and justice as fundamental foundations to support business actors and maintain public trust. Indonesia's advantage lies in the uniformity of the system which facilitates national control, and the US in the system's adaptability to local characteristics. Both also face challenges that need to be addressed with regulatory adjustments and increased education for business actors and the public. In general, this comparison provides important insights for policy makers in both countries to learn from each other and develop digital excise stamp policies that are increasingly effective, efficient, and responsive to technological developments and global market needs, so that they can optimally realize fiscal and public health goals in business law in the digital era.

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