

## **Final Income Tax for Small Entrepreneurs in Indonesia and its Relation to the Principles of Tax Justice**

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### **Abstrak**

*Peraturan Pemerintah Nomor 23 Tahun 2018 menjadi sebuah peraturan yang menetapkan pajak penghasilan Final 0,5% khususnya bagi pengusaha kecil yang menimbulkan pro dan kontra dalam pelaksanaannya. Melalui PP inilah di dalamnya memberikan beberapa aturan mengenai dasar pengenaan pajak dan siapa saja pihak-pihak yang dapat dikenakan pajak penghasilan Final. PP ini menurunkan tarif pajak dari peraturan yang sebelumnya untuk memberikan keringanan dan kemudahan beban pajak bagi para pengusaha kecil di Indonesia. Pemerintah mengingat bahwa usaha kecil menjadi salah satu pendongkrak ekonomi suatu negara tetapi minim perhatian dan fasilitas. Penelitian ini dilakukan dengan menggunakan metode normatif dengan menganalisa mengenai prinsip keadilan yang terkandung di dalam PP 23/2018 yang menurut pemerintah akan berpihak kepada pengusaha kecil. Mengingat sektor usaha kecil sendiri memiliki modal yang kecil dan akses yang terbatas, tetapi diwajibkan untuk membayar pajak kepada pemerintah. Hasil dari adanya penelitian ini yaitu bahwa secara normatif, PP 23/2018 sudah memberikan keadilan bagi para pengusaha kecil sedangkan yang terjadi di lapangan ternyata adalah hal yang sebaliknya. Selain itu, dengan melihat dari beberapa penelitian yang sudah dilakukan sebelumnya, bahwa terdapat hambatan yang dialami oleh para pengusaha kecil yaitu salah satunya kurangnya kemampuan dalam hal pencatatan keuangan. Maka melalui PP 23/2018 inilah bentuk fasilitas pemerintah untuk memberikan support terhadap para pengusaha kecil untuk mengembangkan usahanya.*

*Kata kunci: pajak penghasilan final; prinsip keadilan; pengusaha kecil*

### **Abstract**

Government Regulation Number 23 of 2018 has been issued to stipulate Final Income Tax at the rate of 0.5%, particularly for small entrepreneurs, which mostly leads to pros and cons. This Government Regulation states several rules regarding the basis of taxation and the parties that should be subject to Final Income Tax. It also reduces the tax rate from the previous regulation to provide tax relief and convenience for small entrepreneurs in Indonesia. Small enterprises have been perceived as being able to improve the economic level of a country, but they are still less likely to be noticed and facilitated. This research was conducted by using a normative method because it is time to analyze the principles of tax fairness contained in Government Regulation No. 23/2018, which are regarded to favor small entrepreneurs by the government. Major constraints faced by small entrepreneurs that affect their growth are lack of capital and limited access to financial services. However, they are still required to pay taxes to the government. The results of this research indicated that the principles of tax fairness for small entrepreneurs that have been normatively stated in Government Regulation No. 23/2018 were not truly implemented in practice. Small entrepreneurs were more likely to face constraints, including the lack of ability in financial records, referring to some previous research. Hence, the government seeks to provide facilities and support for small enterprises' development through the stipulation of Government Regulation No. 23/2018.

Keywords: final income tax; principles of tax fairness; small entrepreneurs

### **Introduction**

Some sources of state revenue can be divided into three, tax, non-tax, and grants. The biggest source of income comes from taxes, and it will eventually be returned to the community through public facilities and other government assistance programs. The Minister of Finance, Sri Mulyani, stated that the implementation of the 2021 State Revenue Budget provided positive work results and exceeded the planned targets. Until December 31st, 2021, the realization of state revenue grows to Rp. 2003.1 trillion or around 114.9%. Sri Mulyani also said that state revenues in the taxation sector can be achieved higher than what is expected in the 2021 State Revenue Budget target. The amount received in the taxation sector is IDR 47.9 trillion. (Annur 2022)

Through the explanation given above, we know that taxes are one of the largest sources of state revenue to support state expenditure financing. In all countries, including Indonesia, there must be tax collection for its citizens. The amount of taxes collected by governments also depends on the policies of each country. This is related to the financial and economic management of a country. For some people, taxes are often a burden because it is an obligation for every citizen. But economists say the opposite, that the existence of taxes is not only a tool used by the government in meeting the needs of state spending but also can measure the behavior of its people. So the phrase "a wise person is a person who pays taxes" is not entirely wrong. (Sumarsono 2010) Law Number 16 of 2009 concerning General Provisions and Tax Procedures (Law 16/2009) defines tax, namely:

"Tax is a mandatory contribution to the state that is owed by every individual or institution that is coercive in nature based on the law without receiving direct compensation and is used for the needs of the state for the greatest prosperity of the people."

In line with what was conveyed by Tjip Ismail that this tax is a citizen's right and obligation to the state, which is implemented and regulated by law and is used for the needs of his country by obtaining contra-achievements in the tax sector concerned. (Ismail 2019) So, from the explanation of the tax, the characteristics contained in the tax definition are as follows: (Ismail 2019)

1. Collected by the state, especially the government or referred to as fiskus, based on the law and its implementing rules;
2. Tax collection can occur due to the transfer of funds from taxpayers to tax collectors (fiskus);
3. There is a counter-achievement or compensation provided by the government to the tax sector concerned;
4. The existence of this tax levy is intended for general state financing from the government to carry out its government functions in terms of development.

If we look deeper, taxes are a part of public law. So to study this tax law, one should apply "lex specialis derogate lex generalis." In another sense, studying tax law prioritizes special regulations and ignores general regulations. The law in taxation itself contains a public element where there is a role for the state as a tax collector. So the state, in this case, acts as a creditor. And taxpayers are described as people and institutions that can be the subject of civil law. (Hidayatullah 2016)

The next thing that will be the subject of discussion in this research is small entrepreneurs. Small entrepreneurs are included in the Micro, Small, Medium Enterprise section. Micro, Small, Medium Enterprise's are synonymous with businesses with considerably low capital, assets, and profits. So special treatment is needed for these small entrepreneurs, one of which is the establishment of Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (Law 20/2008) along with its derivative rules. One important thing to remember is those small entrepreneurs are synonymous with sole proprietorships. Therefore, the criteria provided by the Micro, Small, Medium Enterprise Law itself are as follows:

1. Micro-enterprises are businesses owned or controlled by individuals and/or individual business entities that meet the criteria of micro-enterprises. Meanwhile, micro-enterprises have assets at most Rp.50 million, and the maximum turnover is Rp.300 million.

2. A small business is a stand-alone business. The form can be in the form of an individual business or a business entity that is not a subsidiary or branch and is not part of a medium or large business. This small business has assets of more than Rp. 50 million to Rp. 500 million. The turnover is around Rp. 300 million to Rp. 2.5 billion.
3. And the last one is medium business, a business that can be managed by an individual or a business entity. Not part of a small business or a large business. The assets owned by this business range from Rp. 500 million to Rp. 10 billion, and the turnover is around Rp. 2.5 Billion to Rp. 50 billion.

So the understanding of Micro, Small, Medium Enterprise's above proves that the government provides a facility for Micro, Small, Medium Enterprise's, especially for small entrepreneurs. In addition to the issuance of the Micro, Small, Medium Enterprise Law, a form of government partiality in the small business sector is the enactment of derivative regulations to support the Micro, Small, Medium Enterprise law, Government Regulation Number 23 of 2018 (GR 23/2018). This GR 23/2018 sets the final tariff, especially for small entrepreneurs. Why? Because in these government regulations, it is enforced that only businesses that have a maximum gross turnover of Rp. 4.8 billion can enjoy this final tax facility.

Judging from the criteria determined by the government, only micro and small entrepreneurs can use this facility from the government. By looking at the turnover, the criteria for entrepreneurs included in the gross turnover is up to Rp. 4.8 billion, namely from micro-entrepreneurs to small entrepreneurs. So medium businesses cannot use this facility. With this facility, the small entrepreneur will be charged a rate of 0.5% of his gross income for one tax year. The government strongly supports small entrepreneurs in Indonesia to be able to advance to class so that they are finally able to compete with other big businesses. With this, small entrepreneurs get an exception in terms of bookkeeping.

The first research comparison is from Amin Purnawan. One of the poverty alleviation efforts is to cut off chain of poverty through the empowerment of community groups that have businesses in the smallest sector. National development is a process of structural change that is carried out continuously. Development is a natural process to realize the ideals of a state, namely a prosperous, just and equitable society. That natural process can be implemented if development assumptions can be met, namely employment opportunities or participation is fully utilized, everyone has the ability the same, equal access, level playing field), and each actor act rationally(Purnawan et al., 2021). The second research is from Lilih Marlinah. Tax incentives are one step policies that the government has taken in the face of an economic downturn due to the Covid-19 attack. Program National Economic Recovery as well expected to work according to its purpose, PP No. 23/2020 set the principle implementation of the PEN program which consists of principle of social justice as much as possible for the prosperity of the people. As wrong one PEN program is Incentive taxation, then what is meant is income tax Article 21 is borne government , exemption from income tax Article 22 imports for 6 months, accelerated restitution value added tax, as well reduction of Income Tax Article 25 as much as 30%.(Marlina & Syahribulan, 2021) The third research from Muhammad Aldi Faridzi. The connection in this study is an Micro, Small, Medium Enterprise actor who has a good understanding of religion and about taxation and always carries out religious attitudes as the

basis of his life, then the Micro, Small, Medium Enterprise actor will understand and comply with his obligations in taxation, namely paying taxes because he considers it an obligation that must be carried out. If it is not done, Micro, Small, Medium Enterprise actors will feel sinful. (Faridzi et al., 2022)

With the stipulation of the gross limit in government regulation, the principle of justice applies. A good rule is a fair rule. By looking at the government's focus on boosting small entrepreneurs, it is a form of justice aimed at the government to be able to compete in the economic world. Seeing small entrepreneurs with limited capital and access, the imposition of 0.5% Final income tax is quite helpful for small entrepreneurs. This relatively small tax imposition can make it easier to pay taxes. The tax rate imposed for this Final income tax is interesting to discuss because it is aimed at income, which is subject to a certain rate. This income tax is not an upfront payment for the income tax payable but directly to pay off the income tax payable for the income. This is what ultimately becomes a measure of fairness in this study. Based on what was explained previously in the introduction, the author is interested in analyzing a problem for this research, "Has the enactment of GR 23/2018 the government succeeded in realizing justice for small entrepreneurs in Indonesia?"

### **Research Method**

This study uses a normative method. The normative method is a method that is focused on examining a norm in positive law. (Michael, 2022) This normative approach is identical to the statutory approach because the statutory approach is applied to research whose legal material prioritizes statutory regulations as the basic reference material for conducting research.

### **Results and Discussion**

#### **Basis of Imposition of Final Income Tax for Small Entrepreneurs**

In a tax system, there is a final income tax. This tax has a scheme that can only be applied to certain types of income with certain procedures and rates. The definition of final income tax is still limited, and there is no clear understanding. However, the Organization for Economic Co-operation and Development (OECD) provides an explanation that final tax is a tax withholding system carried out by third parties. This is a tax agreement (between the Taxpayer and the Government) and is imposed with a tariff limit, which is lower than the rate that would be imposed on other conditions. (DDTCNews 2022)

In 2018, the Government of Indonesia finally issued Government Regulation Number 23 of 2018 to replace the old regulation, namely Government Regulation Number 46 of 2013. The existence of GR 23/2018 was based on pressure from small business actors who objected to the imposition of a 1% tariff on taxes. final income on the gross turnover during one tax year. Through GR 23/2018, the government changed the tax from 1% to 0.5%. With the enactment of this government regulation, micro and small business actors hope that the tax burden they bear can reduce and improve the weaknesses that have existed in GR 46/2013. If we look deeper, GR 23/2018 does not change the basic principle of the previous regulation, which is still the imposition of final income tax for micro and small businesses. The only thing that changes is the fare. With a tariff of 0.5%, it is expected to be able to fulfill the principle of justice for small entrepreneurs. (Kurachman 2020)

The enactment of GR 23/2018 is good news for small business actors. Through this government regulation, several parties can be subject to final income tax. These parties include:

1. Individuals;
2. Cooperative;
3. Limited Partnership (CV);
4. Firm;
5. and Limited Liability Company (PT).

However, the imposition of a tariff of 0.5% is not absolute. Because for business entities that choose to be subject to income tax based on the rates of Articles 17 and 31E of Law Number 36 Year 2008 concerning Income Tax, even if the turnover is below Rp. 4.8 billion per year is also allowed. Thus, these business actors can choose whether to use a final income tax of 0.5% or choose to be subject to income tax according to the income tax.

Some of the benefits were finally felt by small entrepreneurs with the enactment of 0.5% Final income tax. Small entrepreneurs who receive income for their business and gross turnover below Rp. 4.8 billion, the taxpayers are not required to make installment payments from income tax Article 25. The income tax Article 25 explains the ways for taxpayers to make installments of their tax obligations in advance. Therefore, taxpayers ultimately do not have a heavy tax debt burden to pay when the tax must be paid according to the deadline for submitting the predetermined income tax return. By paying this final income tax of 0.5%, small entrepreneurs are considered to have made a final income tax deposit and are considered to have submitted the income tax return. And with the imposition of a tax of 0.5%, small entrepreneurs can perform quick, easy, and simple tax calculations. Small entrepreneurs are also free to keep books, but they are required to keep records. The recording contains data that is made regularly about the gross income they receive and is used to calculate the amount of tax that will be charged to them. (Rahmi and others 2020)

By doing this simple recording, later small entrepreneurs will get several benefits, one of which is that they will get easy access to additional capital through the People's Business Credit (KUR) program provided by banking institutions to increase their small businesses. This simple record is a must because it is important to do for small entrepreneurs. If small entrepreneurs do not keep records, this will impact them later because of the difficulty in obtaining credit from banks. Support from the government and all aspects of society is needed to carry out the importance of recording. Because through GR 23/2018, the government tries to help the small business sector to provide convenience and simplification of taxation procedures. Also, the government sees the great potential that exists in small entrepreneurs to contribute directly to the implementation of improving the country's economy.

As previously explained, the existence of GR 23/2018 provides convenience for the imposition of Final Income Tax for small entrepreneurs. However, there is a period of validity set for 0.5% income tax. The validity period is determined for registered taxpayers since the enactment of this government regulation. Thus, taxpayers are not always able to enjoy the 0.5% facility. The validity period is: (Savitri and Saifudin 2018)

1. For individual taxpayers (WP OP), the tax period is 7 years;

2. Corporate taxpayers in the form of cooperatives, CVs, and Firms, are subject to a tax period of 4 years;
3. And for corporate taxpayers in the form of a limited liability company, the tax validity period is 3 years.

If the validity period has expired or while in the middle of the road, the gross circulation has exceeded Rp.4.8 billion, and the taxpayers are subject to income tax Article 17 or Article 31E as stipulated in the Income Tax Law. So, the calculation based on gross turnover can no longer be enforced. Then, they are charged based on their net income. Because this PP was ratified starting in 2018, then for Individual taxpayers the income tax expires in 2025. For Cooperatives, CVs, and Firms, it will end in 2022. And for Limited Liability Company taxpayers it will end in 2021.

Indriana and others, 2020, stated that GR 23/2018 has a positive impact on small entrepreneurs who are the subjects of their research in the Pamekasan area. Some of the small entrepreneurs he interviewed were aware of the 0.5% tariff imposed on entrepreneurs with a certain gross turnover. In line with this statement, there are still many small entrepreneurs who still lack knowledge and information regarding their tax payment obligations. These small entrepreneurs also feel that there is justice from the government because the tax rate imposed is relatively small. In addition, the local government, through its socialization, also invites these small entrepreneurs to use public facilities provided by the government, one of which is the ease of obtaining business permits.

The opposite was conveyed in the research of Prakosa and Hidayatulloh, 2019. They conducted interviews with 9 small business actors in the city of Yogyakarta. From the interview, the researcher finally stated that 5 small business actors of whom considered that the existence of GR 23/2018 was unfair because the policies made felt they were not appropriate. They feel there are obstacles to its implementation because of the different legal certainty received by each business actor. And 4 other business actors consider that GR 23/2018 has provided justice and partisanship for small entrepreneurs because of the tax relief they get. The existence of this difference of opinion, the researcher finally concludes that the basics of tax collection and regulations are made inefficient.

With the comparison of these two studies, it can be concluded that the imposition of the Final Income Tax of 0.5% makes it easier for small entrepreneurs. Because the imposition of tariffs charged to these small entrepreneurs tends to be smaller. However, this lack of information and understanding of small entrepreneurs is what ultimately burdens small entrepreneurs themselves. They still think that paying this tax is a complicated and troublesome thing. In addition, some think that even though the tax rate has been reduced to 0.5%, there are still taxpayers who object to the tax determination. There are still those who ask that the tax rate imposed is 0% for these small entrepreneurs. And many of them end up not carrying out their tax obligations because of the complicated and troublesome system. Many are less concerned about paying taxes. Knowledge of taxation is the most fundamental thing that must be owned by taxpayers. (Afdillah and Umairah 2021)

### **The Principle of Fairness in the Imposition of Final Income Tax in GR 23/2018**

The taxation that appears for small entrepreneurs is appointed based on the principle of fairness in tax collection. Talking about income tax, fair taxation gives a meaning that the greater the income generated, the greater the tax payable that must be paid by taxpayers. The

next thing to note is that 'fair' is abstract. Justice itself is a relative thing and is not the same for everyone. (Santoso 2016) This equity principle is the main principle in tax collection. Why? Because every citizen who participates in depositing taxes must be adjusted to their respective abilities. By giving this different treatment, the tax is finally collected, and the amount is determined based on the income earned by a person. In particular, tax collection must be fair to both tax collectors and taxpayers.

Quoting from a theory by Adam Smith, there are 4 principles for tax collection. One of the principles is the Equality Principle. (Bohari 2010) This principle gives an understanding that the word "equal" itself is taken from English which means balance. That is, in collecting taxes, tax collectors should pay attention to the income and capabilities of the taxpayers. Because basically, the tax itself is a means for the welfare of the people. So the state must realize justice for its people by making fair regulations. Final income tax is also collected based on simplicity because it is intended for the small business sector to participate and carry out its compliance as taxpayers who so far feel that the government has not paid attention to it.

The implementation of taxes that meet the principles of justice itself can be done with 2 approaches, the principle of expediency and the principle of ability to pay. But the principle of expediency itself is difficult to apply because of its limitations in this principle. So that the right principle in the application of fair tax collection is the principle of ability to pay. This concept has 3 alternatives, namely: (Miraj, 2019)

1. The ability he has is called wealth. In other words, the ability when the Taxpayer owns his wealth or when he owns the property. If this is done, the tax imposed is called a property tax;
2. The ability that is obtained when the taxpayer has a certain period, for example, during one tax year. If this is selected, then it is called Income Tax;
3. And the last is the ability that is actually used by the taxpayer to buy an item or service to meet the needs in his life. If this is selected, it will be a Personal Consumption Tax.

The principle of ability to pay, which finally divided into 2 justices, vertical justice, and horizontal justice. If it fulfills vertical justice, the tax collection is seen from the taxpayer who has the additional economic capacity and must be treated differently from those who do not have additional economic capacity. And if you look at horizontal justice, taxpayers with the same condition must also be treated with the same conditions. So that vertical justice is ultimately used in its implementation because: (Rosdiana and Tarigan 2005)

1. The imposition of a progressive tax burden, in other words, the greater the taxpayer in paying his taxes, the greater the tax burden he will bear.
2. There is a difference in the total tax burden or the impact of income obtained from the taxpayer (tax burden). This is seen from the type and source of tax income.

By looking at the principles mentioned above, what can be summarized is based on practice in the field. The imposition of these principles can be applied either to income taxes or taxes originating from income earned by taxpayers. By applying the principle of ability to pay, it is better if the tax is applied progressively. Because in the income tax, the application of justice both horizontally and vertically can be applied properly and systematically by looking at the conditions of the same taxpayer and the same source of income, so that the same tax will

be charged with the same amount as well. Therefore, taxpayers who have higher incomes will pay more taxes as well. And so those who have low incomes will be subject to low taxes as well. Because with this progressive rate, a proportional tax can be imposed according to the ability to pay taxes. (Subroto 2020)

If the collection of taxes for small entrepreneurs in Indonesia is based on the principle of justice, the determination of the Final income tax rate of 0.5% of gross circulation tends to be lighter when compared to various other countries with higher tax rates. For example, Albania applies a flat rate of up to 1.5%. And Ukraine applies a uniform rate of 6% only for income tax. Another thing that is appropriate if GR 23/2018 has implemented justice, namely the abolition of bookkeeping for small entrepreneurs. The taxpayers are only required to make simple records, so this is what distinguishes small entrepreneurs and large businesses. If large entrepreneurs are required to do the bookkeeping and the imposition of taxes based on net circulation. (Subroto 2020) This gross income-based revenue can be debated, however, because there will be a tax gap or a gap between the potential revenue obtained from taxes and the realization of the tax achievement itself. And the last thing that needs to be underlined is whether the application of the 0.5% tariff is optional or not absolute. Small entrepreneurs who object to the imposition of the 0.5% tariff can apply the DGT to follow the tariff scheme according to the Income Tax Law.

As is well known, the small business sector itself is a form of business with small capital and limited access. Usually, these small businesses appear in line with creativity and human resources. With this in mind, it is natural that business actors are still unfamiliar with financial statements in taxation. The lack of participation of small business actors causes tax collection from the small business sector to still tend to be minimal. Although this tax is often seen as a burden, in fact, this is not necessarily a burden for small businesses. On the contrary, it is by setting the tax that can eventually boost small entrepreneurs. So that the small business sector will later be recognized as a formal economy, and the impact on taxation will increase. (Wardana 2021)

The problem related to the low level of tax compliance imposed on taxpayers is something that has been rooted in ancient times. The biggest challenge for tax collectors from ancient times was related to the non-compliance of their taxpayers. The factors behind this are low tax morale and the lack of information provided by tax collectors because this is almost faced by all countries that implement a tax system. With the provision of the facility for reducing the Final income tax rate from 1% to 0.5%, the government seeks to further improve taxpayer compliance. The Director General of Taxes will continue to make various efforts and approaches to these business actors to be able to develop their businesses. By providing this incentive program, the government intends to ease the burden of taxation. Although on the other hand, it will certainly burden the state budget because there is a decrease in revenue receipts from the tax sector. However, as complex and difficult as the choices faced by the government, the government must continue to take the best policies for the future so that the economic sector continues to run and grow as expected. (Saprudin and others 2020)

### **Conclusion**

Through GR 23/2018, the government intends to provide convenience and simplification of tax rules for small entrepreneurs in Indonesia. This is because small entrepreneurs in Indonesia are the backbone of the economy. Small businesses in Indonesia



dominate the economy because they absorb the most labor and can increase the Gross Domestic Product (GDP). They are given convenience because the government provides the opportunity to contribute to the economic activities of a country. With the change in the Final income tax rate from 1% to 0.5%, there are pros and cons in society. Some parties regret that this policy has been made to provide justice for small entrepreneurs, and some consider that they feel aggrieved by this change. With the imposition of Final income tax from gross circulation, it is hoped that small entrepreneurs will benefit because of the savings in paying their income taxes compared to taxpayers who pay their taxes with net income. The excess given by the government by stipulating a tax of 0.5% is not enforced absolutely. So that taxpayers can choose to use the tariff or the general rate.

Justice is abstract and relative in form and nature. It is necessary to know that the purpose of establishing a regulation is to achieve justice. So this tax collection system should be applied fairly. Fair in a statutory regulation is that taxes must be imposed in general and evenly, and do not forget to pay attention to the ability to pay of each taxpayer. This principle of justice must always be upheld, not only in principle but also enforced in everyday life. The principle of justice must also be used as an absolute requirement for tax collectors (fiskus) to achieve prosperity in society with a rate of 0.5% imposed on individual taxpayers without a limit on the value of turnover. Regardless of the form of business, regardless of the profits obtained, it will still be subject to a 0.5% tax. Including businesses that continue to experience losses also still have to pay taxes unless there is no business circulation in that month.

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