

## AUTHORITY OF BALI PROVINCIAL GOVERNMENT IN THE COLLECTION OF SURFACE WATER TAX IN BALI PROVINCE

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### Abstract

Bali Province as an autonomous region is given authority to conduct all government affairs, which is basically a task of government, development and public service which in its implementation requires financing originating from local taxes. Local Taxes have been submitted to the regions under the guidance of Law Number 28 of 2009 on Regional Tax and Levy. One of the local taxes already managed by the Bali Provincial Government is the Surface Water Tax. The formulations of this research problem is 1) How is the implementation of authority of Bali Provincial Government in Surface Water Tax Collection in Bali Province? 2) How is the implementation of Bali Province Regional Regulation No. 1 of 2011 *jo* Bali Province Regional Regulation No. 1 of 2015 on Regional Tax?. The Results of this research indicate that: 1) Implementation of authority of Bali Provincial Government in Surface Water Taxation is in accordance with the prevailing laws and regulations, because Law Number 28 of 2009 on Regional Tax and Levy has been followed up with the stipulation of Bali Provincial Regulation Number 1 in 2015, with further elaboration in the Bali Governor's Regulation Number 40 of 2011 on Technical Guidance of Implementation of Provincial Regulation No. 1 of 2011 and Decision of the Head of Bali Province Revenue Service No. 973/5651/ *DISPENSA* on Technical Guidance on the Implementation of Motor Vehicle Tax Collection, Transfer of Motor Vehicle Title, and Surface Water Tax; (2) Implementation of Regional Regulation of Bali Province Number 1 of 2015 Concerning Amendment to Provincial Regulation Bali Number 1 of 2011 Concerning Regional Taxes (especially Surface Water Tax) has not been effective.

**Keywords:** Local Tax Collection, Surface Water Tax,

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### I. INTRODUCTION

Bali Province as one of the autonomous regions established under Law Number 64 of 1958 on the Establishment of Level I Regions of Bali, West Nusa Tenggara and East Nusa Tenggara, has the authority to regulate and manage the affairs of their own local households. The authority is reinforced by Law Number 23 of 2014 on Regional Government which explains that the regions are given wider authority with the aim of providing flexibility to organize the government. This authority covers all governmental powers except for foreign policy, defense, security, judiciary; monetary, fiscal and religious affairs.

To carry out the submitted authority, financing is required so as to follow up Law Number 32 of 2004 on Regional Government (last amended by Law Number 23 of 2014 on Regional Government), made into Law Number 33 of 2004 on Financial Balance Between the Central Government and Local Government, which in essence provides that for the administration of all government affairs must be accompanied by the submission of sources of acceptance. One potential source of revenue is taxes and user charges. Taxes are public dues to the state based on law (can be imposed), which can be directly appointed and used to finance development.<sup>1</sup> Whereas the Regional Tax is a compulsory contribution to the payable region, which by a person or entity which is of a coercive nature under the Act, by not obtaining direct remuneration and used for the benefit of the Region for the

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1. Rochmat Soemitro, 1992, *Pengantar Singkat Ilmu Pajak*, Pt. Eresco, Bandung, p. 25

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greatest prosperity of the people (Article 1 number 10 of the Act Number 28 of 2009, on Regional Tax and Regional Retribution).

Submission of taxes to regions shall be stipulated in Law Number 28 of 2009 on Regional Tax and Regional Retribution as a source of regional financial revenue, hereinafter referred to as Locally-Generated Revenue (abbreviated as LGR hereinafter).

Local Taxes submitted to Provinces are regulated in Article 2 paragraph (1) of Law Number 28 of 2009, consisting of 5 (five) types of Regional Taxes, namely; (1) Motor Vehicle Tax; (2) Transfer of Motor Vehicle Title; (3) Motor Vehicle Fuel Tax; (4) Surface Water Tax; and (5) Cigarette Tax. Of the five types of local taxes, all of them have been managed by the Provincial Government of Bali based on Bali Province Regional Regulation No. 1 of 2015 on Amendment to Bali Province Regulation No. 1 of 2011 on Local Taxes. At the time of the enactment of Law Number 34 of 2000 on Amendment to Law Number 18 of 1997, the Provincial Government of Bali is still managing the Underground Water Tax (UWT) combined with the Surface Water Tax (SWT). Then, with the enactment of Law Number 28 of 2009 on Regional Taxes and Levies, UWT submitted to the district/city government, while the SWT is the authority of the Provincial Government of Bali, with the Legal Basis of Bali Province Regulation No. 1 of 2011 on Local Taxes, management of five types of local taxes, namely; Motor Vehicle Tax, Motor Vehicle Title Fee, Motor Vehicle Tax, Surface Water and Cigarette Tax.

Among the types of local taxes already were managed by the Provincial Government of Bali, the types of local taxes that provide the greatest contribution to the Regional Original Revenue (ROR) of Bali Province are Motor Vehicle Tax (MVT) and Motor Vehicle Title Fee (MVTF). MVT in 2015 contributes to MVT 30.54%; MVTF contribution to ROR Bali Province 2015 is 87.98%, while Surface Water Tax only contributes to ROR Bali Province of 0.89%.<sup>2</sup>

If it is viewed from the potential of Surface Water Tax (SWT), this is small compared to other types of local taxes, but the management of SWT must be done primarily in the regulation of surface water uptake and utilization, because the surface water conditions in Bali Province are already close to critical thresholds, quantity and quality. Surface water is not only used by companies or private individuals to support its business, but surface water is also used by the general public for various purposes, including its use by the Regional Water Company (RWC) as the raw water of RWC, as well as other social activities. The above conditions attract the interest of the author to lift it in a paper in the form of a journal entitled "The Authority of Bali Provincial Government in the Effectiveness of Surface Water Tax Collection in Bali Province".

Based on the background above the formulation of the problems in this study are (1) how is the implementation of Bali Provincial Government authority in Surface Water Tax Collection in Bali Province? (2) how is the implementation of Bali Province Regional Regulation No. 1 of 2015 on the Amendment to Bali Province Regulation No. 1 of 2011 on Regional Taxes?

The objectives of the study, in general, are related to the effectiveness of the implementation of Bali Province Regional Regulation No. 1 of 2015 on Amendment to Provincial Regulation Bali No. 1 of 2011 on Local Taxes to describe and analyze the effectiveness of the implementation of Regional Taxes in Bali Province, especially Surface Water Tax.

Local Taxes administered by the Provincial Government of Bali are regulated in the Bali Province Regional Regulation No. 1 of 2015 on the Amendment of Provincial Regulation No. 1 of 2011 on Regional Tax Regulating the Motor Vehicle Tax, Transfer of Motor Vehicle Fuel, Surface Water Tax. Among all types of local taxes, Cigarettes Tax is a type of tax which is on going implemented effectively in 2015. Surface Water Tax at the enactment of Law No. 34 of 2000 on Amendment to Law No. 18 of 1997, the Provincial Government

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2. Dinas Pendapatan Provinsi Bali, 2016, *Profil Dinas Pendapatan Provinsi Bali Tahun 2015*, Denpasar, p. 4

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manages Water Tax Surface is incorporated with Subterranean Water Tax, but after the enactment of Law Number 28 of 2009 on Regional Taxes and Levies, since 2011, Underground Water Tax has been submitted to districts/municipalities, while Surface Water Tax remains the authority of Bali Provincial Government.

## II. METHOD

This research type is empirical law research because there is gap between *das solen* and *das sein* that is gap or imbalance between states of the theory with legal fact. The problem approach used is *the statute approach*, *the conceptual approach*, and *the sociological approach*.

Source of data needed in analyzing the problem of this research is primary data and secondary data. Primary data is data obtained from the first source, either from the research informant or from the research respondents, which is collected through interview techniques and questionnaires. Secondary data is data obtained from second source which in this research called Legal Material (Primary Legal Material, Secondary Law Material), collected using documentation technique, and record by using card and file.

This research was conducted at Bali Revenue Service in Surface Water Taxation in Bali Province. To complete the data, the research to the Taxpayer is also done, that is the personal person or entity having income, possessing or possessing the object of surface water tax in the area of Denpasar which becomes the authority of Bali Provincial Government.

At the Provincial Revenue Service of Bali, research was conducted on the Regional Tax (Surface Water Tax). While the taxpayers are bodies such as in Packaging Water Company of Aqua Merk, and Water Company of Denpasar, and Tabanan. While the individual as a taxpayer is an individual who has a Sablon company, among others, located in Seseetan, South Subdistrict of Denpasar. Data analysis method that was used is qualitative interpretation analysis.

## III. DISCUSSION

### A. Implementation of Bali Provincial Government Authority in The Surface Water Tax Collection in Bali Province

Bali Provincial Government as one of the autonomous regions within the territory of the Unitary State of the Republic of Indonesia was established under Law Number 64 of 1958 concerning the Establishment of the First Level Region of Bali, West Nusa Tenggara and East Nusa Tenggara. With the rolling of reform of local government law, namely Law Number 5 of 1974 on the Principles of Governance in the Area replaced by Law Number 22 of 1998 on Regional Government, the nomenclature of the Provinces of the First Level Region of Bali amended into Bali Province. Due to the development of development in all fields, Law Number 22 of 1998 was last amended by Law Number 23 of 2014 on Regional Government.

Law Number 23 of 2014 provides that to the Provincial Government all government authorities shall be entrusted and shall become matters of regional households, except for foreign affairs, defense, security, yustisi, monetary and fiscal affairs, and religions which remain the authority of the central government. To carry out the governmental affairs that have been submitted is required large financing, so to the region submitted and diverted sources of financing that is regulated by Law Number 33 of 2004 concerning Financial Balance between the Central Government and Local Government. Article 5 of Law Number 33 of 2004 regulated Source of Regional Revenue in the implementation of decentralization consists of Regional Income and Financing. Regional Revenue consists of; Local Original Income, Balancing Fund and Other Income. While Financing consists of remaining of

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Regional Budget calculation, Regional Loan Receipts, Regional Reserve Funds, and Sales Results of Separated Regional Wealth.

Submission of sources of acceptance as mentioned above is then followed up by Law Number 28 of 2009 on Regional Taxes and Local Retributions, which furthermore by the Provincial Government of Bali has been followed up by stipulating Provincial Regulation Bali No. 1 2015 on Changes in Bali Provincial Regulations Number 1 of 2011 About Local Taxes.

Thus, it is seen that in the management of Surface Water Tax, the authority of Bali Provincial Government is in accordance with the prevailing laws and regulations, namely Law Number 23 of 2014 on Regional Government and Law Number 28 of 2009 on Regional Taxes and Levy Area. To follow up the management authority (collection of Local Taxes, which in this case is Surface Water Tax), Bali Provincial Government has stipulated Provincial Regulation Bali Number 1 of 2015 on Amendment of Regional Regulation of Bali Province Number 1 of 2011 About Local Tax.

Surface Water Tax Collection is conducted by Bali Province Income Board as one of the regional apparatus organization that manages regional income, practiced by Regional Technical Executing Unit, Regional Income Board of Bali Province in Regency/City of Bali Province. Tax Collection according to the provisions of Article 1 number 49 of Law Number 28 of 2009 is a series of activities ranging from collecting data objects and tax subjects, the determination of the amount of tax payable up to the activities of tax collection and supervision pengetorannya.

The revenue of Bali Provincial Government from Surface Water Tax is used for funding the execution of development tasks and public services, which prior to exploitation shall be allocated as Regional Revenue in *APBD* (Regional Budget) of Bali Province.

Related to the utilization of Surface Water Tax, in detail regulated in Bali Provincial Regulation No. 1 of 2015 concerning Amendment to Regional Regulation of Bali Province Number 1 of 2011 Regarding Local Taxes, Article 68, which determines:

1. Surface Water Tax collected from sources located in more than one regency/city, the result is submitted to the Regency/City by 50% (fifty percent), and thus the Provincial Government of Bali utilizes 50% (fifty percent) as well.
2. The Surface Water Taxes submitted to the Regencies/Municipalities are divided into 70% (seventy percent) based on the potential of each regency/city, and 30% (thirty percent) based on equity.
3. Surface Water Tax from sources located in regency/municipality increased by 80% (eighty percent), while Bali Province used 20% (twenty percent).

## **B. Execution of Regional Regulation of Bali Province Number 1 of 2015**

Bali Province Regional Regulation No.1 of 2015 on Amendment to Provincial Regulation Bali No.1 of 2011 on Regional Taxes is one of the legislation products from the Provincial Government of Bali together with the Bali Regional Legislative Council. As an autonomous region of Bali Province has the authority to enact local regulations. The proposed draft of Local Regulation on Regional Tax is an initiative of the executive party (Regional Government of Bali Province), and then submitted to the Bali Provincial Legislative Council to be discussed together, after being approved to be the Regional Regulation signed by the Governor of Bali. The law after being approved by the Provincial Legislative Council of Bali, was stipulated as Bali Province Regulation No.1 of 2011 (set on April 6, 2011) and enacted in the Provincial Gazette of Bali of 2011 Number 1, Supplement to the Regional Gazette of Bali Province Number 1.

Due to the development and progress of development, Bali Province Regional Regulation No.1 of 2011 amended by Regional Regulation Bali No.1 of 2015 on

Amendment to Regional Regulation Bali Province No.1 of 2011 on Local Tax.

For the dissemination of Bylaw No. 1 of 2011 has been socialized since April 2011, including also Regional Regulation No. 1 of 2015 socialized to improve the community's understanding of the law. The socialization was conducted by the Socialization Team of Bali Provincial Regulation which was established by Bali Governor Decree, whose chairman is the Provincial Secretary of Bali, Head of Bali Provincial Revenue Office as Secretary of Socialization Team, completed by Team Member of Socialization.

Regional Regulations on Local Taxes have been implemented, but in reality have not been effective yet as seen from not all companies and/or individuals who have taken and utilized Surface Water to pay Surface Water Tax, since they have not registered their business to the Bali Revenue Service because it is constrained of the permit problem utilization of Surface Water which is the authority of Bali Penida River Region (the working unit within the Ministry of Public Works and People's Housing).

The effectiveness of Bali Provincial Regulation No. 1 of 2015 can be interpreted as the successful execution/implementation of local regulation, so it can be said as the effectiveness of law.

The ineffectiveness of the implementation of Provincial Regulation No.1 of 2015 on the Amendment of Provincial Regulation No.1 of 2011 on Local Taxes can be seen from the small number of registered Surface Water Taxpayers, which is only 86 Taxpayers, as shown in Table 1 below.

**Table 1**  
**Number of Surface Water Taxpayers in Bali Province on 2016**

No	Regency/City	Number of Taxpayer
1.	Buleleng Regency	10
2.	Jembrana Regency	14
3.	Tabanan Regency	21
4.	Badung Regency	3
5.	Gianyar Regency	22
6.	Bangli Regency	8
7.	Klungkung Regency	3
8.	Karangasem Regency	3
9.	Denpasar City	2
<b>Total</b>		<b>86</b>

Source: Revenue Office of Bali Province

Table 1 indicates that the largest number of Surface Water Taxpayers is Gianyar Regency, which is 22 Taxpayers, followed by Tabanan Regency with 21 Taxpayers, and the least is Denpasar City. The number of registered Taxpayers are very incompatible with the potential that exists (companies and individuals who take and utilize surface water). Unregistered companies and/or private individuals who take and utilize surface water, because they have permits from Balai Penida Bali River Region, so they have not been registered as Surface Water Taxpayers.

#### IV. CONCLUSION

##### A. Conclusion

1. Bali Provincial Government has the authority to collect Surface Water Tax in accordance with the provisions of Law Number 28 of 2009 on Regional Taxes and Levies, which has been followed up by Provincial Regulation No. 1 of 2015 on Amendment to Provincial Regulation No. 1 of 2011 About Local Taxes. Such authority is the submission (attribution) which is the handover of new authority to the Provincial Government of Bali.
2. Implementation of Bali Provincial Regulation No. 1 of 2015 on the Amendment of Provincial Regulation No. 1 of 2011 on Regional Taxes (especially Surface Water Tax Collection) has not been effective, as seen from that not all companies and/or individuals who take and utilize Surface Water pays Surface Water Tax, because it has not registered its business to the Revenue Service of Bali Province, because constrained issue permit utilization of Surface Water which become authority of Bali Penida River Region (work unit in environment Ministry of Public Works and Housing). Data presentation/administration has not been maximal so that it cannot be known for certain Permit of Surveys and Surface Water Utilization which causes difficulties for the control.

## B. Suggestion

In an effort to improve the effectiveness of the implementation of Bali Province Regional Regulation No. 1 of 2015 (primarily Surface Water Tax), the following points are recommended:

1. Implementation of the socialization of the Provincial Regulation of Bali No. 1 of 2015 is intensified (mainly related to Surface Water Tax), so that the awareness of people using surface water can be improved, because the Surface Water in Bali Province needs attention, in addition to water quality surfaces are increasingly polluted, the quantity of Surface Water decreases, and it must be realized that Surface Water is also very needed by the public for various purposes.
2. Increasing coordination with Regency/Municipality Government in Bali Province in terms of supervision of Surface Water use, to report any person and/or company using Surface Water, but not yet or not reporting to Bali Provincial Government CQ. Revenue Service of Bali Province through Technical Executing Unit Revenue Service Province of Bali Regency/City. In order to have a model of data presentation in an orderly manner so that Surface Water utilization and utilization can be done in a controlled manner through licensing.

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