

Analysis of Alternative Hotel Tax Policies for Airbnb Transactions in DKI Jakarta

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ABSTRACT

This research is motivated by the development of lodging transactions through digital platforms, such as Airbnb. The policies that have been implemented in Florida and New York City are determined to analyze alternative hotel tax policies for Airbnb transactions in DKI Jakarta. The method of hotel tax collection on Airbnb transactions in DKI Jakarta is analyzed by comparing the two collection methods that have been applied in Florida and New York City. A qualitative approach with data collection techniques in the form of in-depth interviews and literature studies is used. Results conclude that the Government of DKI Jakarta lacks detailed preparations and has not carried out supervision and realization of potential taxes on Airbnb transactions, especially on residential types. The government is known to have a strong legal basis to impose hotel taxes on Airbnb transactions by using existing legislative requirements. Therefore, the tax authorities of DKI Jakarta must take steps to collect taxes on these transactions as policies have been implemented in Florida and New York City.

Keywords: Policy Analysis, Hotel Tax, Airbnb

1. INTRODUCTION

Internet connection provides an opportunity for companies engaged in digital platforms or e-commerce to provide services through digital transactions. OECD defines digital transactions as purchases or sales of goods and services, both between businesses, households, individuals, governments, and other public or private organizations that are conducted through computer network mediation.

The Airbnb business first started in 2007 in San Francisco. Airbnb has currently grown by providing accommodation reservations in 81,000 cities in more than 191 countries (Airbnb, 2018).

Airbnb has been present in Indonesia since 2012 through 43,700 users or leaseholders. The development of the Airbnb business in Indonesia can be seen from its large amount of total revenue in the past year. According to Southeast Asia Airbnb's Head of Public Policy, Mich Goh, Airbnb's revenue in 2016 from 43,700 rental owners reached Rp1.15 trillion (US\$84.6 million). Therefore, the income of each rental owner over the past year reached Rp28.4 million (Santhika,

2017) through the revenue sharing of 97% for rental owners and 3% for Airbnb.

According to Airbnb, 936,300 Airbnb guests arrived in Indonesia over the past year with an annual growth of 64%. A total of 45,600 listings exist for lodging rentals listed on Airbnb with an average number of orders (per night) annually of 24 nights and an average length of stay per guest of 3.7 nights. Based on these transactions, the estimated guest expenses are approximately US\$75 million, and rental owners receive approximately US\$94.5 million (Kontan, 2018).

Hotel tax on online-based lodging rentals through Airbnb has not been regulated in Indonesian tax rules. Meanwhile, the hotel industry, which conventionally conducts its business, has the obligation to pay hotel tax based on Law No. 28 of 2009 concerning regional taxes. The development of the Airbnb business in Indonesia has allowed taxation opportunities for the local Indonesia government. Airbnb itself has represented the obligation of rental owners to collect and deposit taxes in several countries. As of May 1, 2017, Airbnb has made agreements with more than 275 jurisdictions around the world to collect and deposit hotel and tourist taxes.

On December 1, 2015, the Florida government entered into a tax collection agreement with Airbnb, where Airbnb has the obligation to collect 6% transient rental tax, 0.5%–1.5% discretionary sales tax, and 2%–5% county tourist development tax for every Airbnb transaction. The effectiveness of these policies can be seen as Airbnb contributing US\$20 million of tax revenue in 2016 and US\$45.7 million in 2017 to the Florida government (Airbnb, 2018).

In contrast to countries that entered into a collection agreement through Airbnb, New York City levied taxes on Airbnb rentals through rental owners. New York State Attorney General (NYAG) requests data regarding transaction details to Airbnb. Subsequently, Airbnb provides data on transaction details to NYAG for the transaction period January 1, 2010–June 2, 2014. However, the detailed transaction data provided by Airbnb were anonymized. The leasing of the units that were successfully identified continued to increase from 2,652 transactions in 2010 to 16,483 transactions in the first 5 months of 2014 (US\$61 million). The transaction is also estimated to have a potential hotel tax of US\$33 million (NYAG, 2014). New York City imposes hotel taxes on Airbnb house and apartment rentals collected through rental owners.

Hotel tax is one type of tax that is important for the source of tax revenue in DKI Jakarta. This can be seen from the continued increase in the target of hotel tax receipts in DKI Jakarta as follows:

Table 1. DKI Jakarta’s hotel tax target and revenue realization

Year	Target	Revenue
2012	Rp1.000.000.000.000	Rp1.028.521.564.463
2013	Rp1.150.000.000.000	Rp1.173.799.319.199
2014	Rp1.400.000.000.000	Rp1.384.103.823.437
2015	Rp1.500.000.000.000	Rp1.276.285.658.514
2016	Rp1.600.000.000.000	Rp1.499.798.259.793
2017	Rp1.150.000.000.000	Rp1.558.010.172.191
2018	Rp1.700.000.000.000	Rp1.745.899.091.706

Source: Retrieved from www.data.jakarta.go.id.

The hotel tax revenue target in DKI Jakarta continues to increase annually, but the increase in revenue plans is not always followed by revenue realization. The realization of the lowest target achievement occurred in 2015 where realization only reached 85% of the tax revenue target.

Considering the large hotel tax revenue target in DKI Jakarta, its government must explore the potential of hotel tax from Airbnb transactions. Based on the data obtained from Airdna.co (2018), the number of rental owners active in DKI Jakarta as of September 2018 is 3,679 rental owners. Furthermore, 46% are multi-listing hosts (rental owners who rent more than one property),

and 54% are single-listing hosts (rental owners who rent only one property). This study aims to analyze the method of hotel tax collection on Airbnb transactions in DKI Jakarta by comparing the two collection methods that have been applied in Florida and New York City.

2. METHODOLOGY

This research used a qualitative approach with literature and field studies. Field research was conducted through in-depth interviews. Qualitative data analysis was also performed. Data obtained were studied to answer the research problems regarding strategies and policy alternatives that can be done to impose hotel tax on Airbnb transactions. The data displayed were only those that have relevance to research. The research emphasized on meaning and description. Therefore, certain data that were collected mainly used words.

3. RESULT AND DISCUSSION

In certain countries, jurisdiction lodging rentals through Airbnb are taxed by local authorities, namely, sales and occupancy taxes or taxes imposed on room rentals. Occupancy tax is often referred to as lodging, room, sales, tourist, and hotel taxes. Three types of taxes on lodging transactions are applied in Florida. First is the state sales tax imposed by the Florida Department of Revenue. This tax applies to a rent or room nightly rate paid for the right to use or occupy a residence or bedroom for a period of less than or equal to 6 months. If a tenant leases more than 6 months, then for the first 6 months, the transient rental tax is imposed, and the lease after passing the 6-month limit is excluded from the tax object. The rate charged is 6% of the price per night, including cleaning fees for reservations less than or equal to 182 nights.

The imposition of state sales tax in Florida is different from the provision in force in Indonesia based on Article 2 Paragraph 1 Letter A Ministry of Finance Regulation No. 43/PMK.010/2015 concerning criteria and/or details of hotel services that are not subject to value added tax (VAT), but subject to hotel tax by the local government under Law No. 28 of 2009. However, if Airbnb is leased in apartments, condominiums, and such, then it can be subject to 10% VAT.

Second is the Florida discretionary sales surtax. This tax is often referred to as the county tax that applies to all transaction types which are object to sales tax. Sellers or those who deliver goods and services perform collection, deposit to the Florida Department of Revenue, and distribute to each county. This tax is paid to the Department of Revenue together with other transient rental taxes. The rate charged is 0.5%–1.5% of the price of staying per night, including cleaning fees for reservations less than or equal to 182 nights.

Third is the tax imposed on transactions from using a residence or bedroom for a period of less than or equal to 6 months in certain counties in Florida. This tax is an option for counties that can be in the form of tourist development, convention development, tourist impact, and municipal resort taxes. Each county can choose to impose some or all tax types which then become a local option transient rental tax. Counties usually impose two taxes, namely, tourist and convention development taxes. Basically, this tax is similar to hotel tax in Indonesia because such a tax is paid and reported to the local government or county for a lodging transaction. The rates charged vary according to each county policy, but taxes in several counties are collected by the Florida Department of Revenue or by the central government. The set rate is 2%–6% of the price per night, including cleaning fees for reservations less than or equal to 182 nights. In Indonesia, the government only gives the option to regional governments for determining the hotel tax rate, which is a maximum of 10%. For example, the hotel tax rate applied in DKI Jakarta is based on Local Regulation No. 11 of 2010, which is equal to 10%, where the rate is higher than that in the counties in Florida. However, for delays in DKI Jakarta, penalties only set an interest sanction of 2% per month if the tax is deposited past the deposit limit date, which is the 15th of the following month after the expiration of the tax period.

Basically, the local option transient rental tax is the same as the hotel tax imposed in regions or local governments in Indonesia based on Law No. 28 of 2009. However, the difference in Indonesia is that the tax is collected by the regency or city government, and no option is provided as in Florida where tax can be collected by the central government. Based on the law applied in Indonesia, Airbnb must bear compliance costs, such as fiscal costs that can be in the form of paying honorariums/tax division staff salaries and hired consultant services.

Tax collection through Airbnb as applied in Florida has fulfilled the characteristics of a flexible taxation system because the implementation of this tax collection can respond well to economic changes where previous transactions are conventionally conducted. Changes occur in transactions carried out through digital platforms. The following are the tax receipt data from Airbnb transactions in several counties:

Table 2. Florida’s tax revenue collected from Airbnb transaction

County	Total tax income
Brevard	\$419,000
Broward	\$1,870,0000
Citrus	\$46,000
Flagler	\$58,000

Franklin	\$16,000
Hernando	\$30,000

On the agreement between Airbnb and the Florida government, Airbnb collects, deposits, and reports taxes as a digital platform company that coordinates lodging rentals in Florida. With the transfer of tax obligations, the obligation of Airbnb rental owners to collect and deposit hotel taxes (similar to other hotel entrepreneurs) has turned into that of Airbnb, thus creating an efficient and simple administrative tax collection system through withholding tax system. In terms of tax authorities, collection through Airbnb can be efficient because taxes are levied at low costs, considering tax collection through Airbnb not through several rental owners. The tax revenues obtained are also significant as previously stated. Airbnb contributed tax revenues worth US\$20 million in 2016 and \$45.7 million in 2017 from its operations in 39 counties to the Florida government (Airbnb, 2018). From the taxpayer side, implementing this policy no longer allows Airbnb rental owners to collect taxes from customers for each transaction.

The second alternative is Airbnb’s tax policy in New York City. Airbnb in several counties in New York State has entered into a tax collection agreement, but not in New York City where the party that is obliged to collect taxes on Airbnb transactions is the owner of the lease. Short-term rentals (Airbnb) in New York City are taxed, namely, the New York City hotel room occupancy tax (which is imposed by the city government), whereas New York State imposes taxation in the form of state sales tax, New York City sales tax (sales tax imposed by the central government), and hotel unit fee of US\$1.50 per day.

The hotel room occupancy tax imposed by the city government is equal to 5.875% plus fixed fees determined on the basis of the rental price. The object of this tax includes the rental of an apartment, hotel, motel, boarding house, bed and breakfast, bungalow, or club. A building is not considered a hotel if the room is only rented for less than or equal to 14 days or only rented once or twice from the 12-month submission period.

These provisions are different from those in Indonesia based on the provisions of Law No. 28 of 2009 Article 32 Paragraph 3 Letter B. The object in the form of rent of apartments, condominiums, and the like is excluded as an object of local tax. In addition, Indonesia uses the threshold on the basis of the number of rooms. For example, in DKI Jakarta based on Perda No. 11 of 2010, hotels are facilities for providing lodging/resting services, including other related services with fees and boarding houses with more than ten rooms with a 10% maximum flat rate.

In leasing rooms in New York City, two types of sales tax exist, namely, 4.5% city sales tax and 4% state

sales tax of rental fees deposited to the central government, that is, the New York State Department of Taxation and Finance. The State Tax Commissioner then determines the amount of tax that must be allocated to the local government. Subsequently, the central government through the State Controller distributes city sales tax to the local government.

Several literature reviews suggest that tax collection on Airbnb transactions in New York City through rental owners is considered ineffective. Based on the data obtained from the NYAG, the Government of New York City lost the potential hotel room occupancy tax from Airbnb transactions worth US\$33 million from 2010 to 2014 due to the rejection of the tax collection agreement with Airbnb.

The loss of potential tax is caused by many rental owners who do not fulfill their obligations to collect taxes and the absence of statutory provisions that specifically regulate the obligation of Airbnb to collect taxes on its transactions.

McLure (1997) states that the provisions governing tax policies on e-commerce often have not been specifically written in statutory provisions. The provision governing the object of hotel tax must be neutral and must cover all transaction types through digital platforms, such as Airbnb and conventional hotels, to create a neutral level of playing field for conventional and digital hotel industries. McLure (1999) suggests that tax policies must be neutral to avoid distorting economic choices and creating economic inefficiencies for businesses, thus allowing conventional and digital transactions.

From the nature of its business, conventional hotel and Airbnb rental owners have the same conditions, that is, lodging service providers must rent out their accommodations daily. Fees for these services can be categorized as objects of hotel tax under Law No. 28 of 2009.

The difference between the two is that hotel transactions are carried out offline by hoteliers, whereas Airbnb bookings are done online, and Airbnb rentals can be in the form of rentals made by individuals and not by hoteliers who have official permits and are not yet hotel taxpayers. In addition, the Director of the Indonesia Hotel and Restaurant Association states that hotels expect regulations that protect their business, considering that they heavily invest in building hotels and issuing operational costs.

According to Owens in Basu (2004), several issues arise in digital transactions that affect the taxation system, namely, the absence of central government control and centralized registration. The Airbnb business in Indonesia faces the same issues, especially for the Airbnb rentals of private houses, apartments, and condominiums that have been carried out without

business permits; rental owners can easily register with the Airbnb application and start operating their business without the permission of the local government. Airbnb rentals currently do not have an official permit. The absence of official licensing makes it difficult for the government to determine the potential of the object of hotel tax from Airbnb transactions, especially the type of private house rentals that has not been taxed at all.

Hotel tax on Airbnb rental transactions, especially private houses, must be reconsidered by the government whether houses leased through Airbnb can be categorized as hotels under Law No. 28 of 2009, which states that "Hotels are facilities that provide lodging/resting services, including other related services with fees, which include motels, inns, tourism huts, tourism houses, guest houses, lodging houses, and boarding houses with more than 10 (ten) rooms." Given this definition, the researcher must examine whether Airbnb house rentals can be categorized as hotels that are the object of hotel tax under Law No. 28 of 2009.

Airbnb rentals, especially homes, are close to hotel rentals and can be categorized in the hotel definition in Law No. 28 of 2009 because the Airbnb rental business is similar to hotels, and both rent out their rooms daily. Airbnb rentals and boarding houses rent out houses, but given that Airbnb rentals are similar to hotel rentals, the "more than 10 room threshold," which is applicable to boarding houses for imposing hotel tax on Airbnb transactions, does not apply.

From the policies implemented in Florida and New York City and the current conditions in DKI Jakarta, several steps can be formulated for the government to implement the hotel tax policy on Airbnb transactions in DKI Jakarta.

First, the government must determine the potential to tax Airbnb transactions by knowing the object and hotel taxpayer who deals through Airbnb. Considering that the government cannot trace Airbnb transactions, the government can record Airbnb transactions. Rental owners must register and obtain permission from the local government first before making Airbnb transactions. Registering Airbnb rental businesses, especially for private house types, can ensure that rental owners who are usually private or Airbnb parties (if tax is collected through Airbnb) can collect hotel taxes with the issuance of NOPD (tax object number) and NPWPD (taxpayer identity number) together with Airbnb rental business permits.

New York City before the Airbnb business was legalized. Rental transactions are basically taxed materially, considering that the hotel tax collection system is a self-assessment. Therefore, without such legalization, hotel tax is owed when Airbnb is leased where the transaction has fulfilled the requirements as a tax object. However, the business licensing obligation

of the Airbnb rental business is needed as a tool to encourage Airbnb rental tax compliance as a hotel taxpayer. In addition to data collection, the most possible thing for the government to do now is to search for Airbnb's tax objects through the Airbnb application itself. The government can also determine how often Airbnb rentals are leased and even their transaction size by looking at Airbnb booking dates.

Second, in terms of statutory provisions, the government can impose hotel taxes on Airbnb rentals, such as residences, without revising material legislation. Based on existing regulations, the government has a strong legal basis to impose hotel taxes on Airbnb rental transactions, such as residential houses. The government only needs to make formal provisions that regulate the fulfilling self-assessment obligations specifically for Airbnb rental owners through regional regulations.

Third, in imposing hotel tax on Airbnb transactions for private houses, regulating the provisions of the legislation regarding the time limit for renting residential or private houses subject to hotel tax is also important. Florida rental homes through Airbnb are subject to hotel tax if rented for less than or equal to 182 days, whereas New York City homes are subject to hotel tax if rented for less than or equal to 180 days. The provisions governing the limitation on the rental time of houses subject to hotel tax must be distinguished between residential rental transactions subject to hotel tax and home rental transactions subject to final income tax under Law No. 36 of 2008 Article 4 Paragraph 2.

4. CONTRIBUTION AND CONCLUSION

The DKI Jakarta government can select hotel taxes collected through rental owners, such as in New York City, and hotel taxes collected through Airbnb, such as in Florida. Both options can be used as alternatives for the DKI Jakarta government. If taxes are collected through Airbnb as in Florida, then the government must make a tax collection agreement first with Airbnb. In addition, if the government chooses an alternative where hotel tax on Airbnb transactions is collected through Airbnb, then the legislation that clearly regulates the provisions of tax objects, taxpayers, and hotel tax collection mechanisms for lodging transactions conducted online must be adjusted.

Meanwhile, if levied through rental owners, the government must simplify the administrative process, so that Airbnb rental owners can register and collect hotel tax. However, if taxes are levied through rental owners, facing compliance issues remains possible because the government cannot trace all Airbnb transactions without a tax collection agreement with Airbnb.

Both alternatives can be applied to hotel tax collection on Airbnb transactions in DKI Jakarta if provisions that clearly regulate the tax collection

mechanism exist. Differences in tax treatment between digital and conventional transactions and new tax types are no longer necessary. Basu (2004) reveals that imposing tax on digital transactions requires the government to make modifications in the taxation system that can accommodate digital transactions.

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