

Tax Policy of Electric-Based Vehicles to Realize Human Rights for a Good Environment in Indonesia

Rahayu Subekti*, Fida Nisrina Iftinani*, Icha Rahmawati*

Faculty of law, Universitas Sebelas Maret Surakarta, Central Java, Indonesia

*Corresponding author. Email : rahayusubekti0211@staff.uns.ac.id, fidaiftinani@student.uns.ac.id, ichachaca_68@student.uns.ac.id

ABSTRACT

This article was intended to find out the policy of taxation of electric-based vehicles to realize human rights related to a good environment. This policy is carried out to reduce emissions, so that the principle of state responsibility for the right to the environment can be fulfilled. The research method used was qualitative and data collection or library methods, because these methods are sufficient to obtain research results. The government and *BUMN* must pioneer the use of national electric cars by using electric cars created by the youth of the nation as their operational official vehicles. This was done as an initial step to open the electric car market segment so that the public could see the seriousness of the government in developing the national electric car industry. In accordance with Government Regulation Number 73 of 2019 concerning Taxable Goods Classified as Luxury in the Form of Motor Vehicles Subject to *PPnBM* which applies to electric-based vehicles. This regulation was issued to support the government's policy to accelerate the reduction of exhaust emissions from motor vehicles. That way, people will get Human Rights that people have the right for a good and healthy environment.

Keywords: *Technology; Electric cars; Government Support; Payment of taxes.*

1. INTRODUCTION

Indonesia has so far only depend on technology from abroad, especially about automotive. Indonesia only produces and assembles and has not become a technology producer or developer, so it is still highly dependent on imports. Manufacturers are also reluctant to transfer technology because there is no car industry policy in Indonesia that requires it. Therefore, Indonesia must master technology independently which is supported by government policies. This is a challenge for the development of technological innovation in the transportation sector.

However, in Indonesia, nowadays, the number of motor vehicles continues to increase, even though if the number of vehicles in Indonesia continues to increase, the consumption of fuel will also continue to increase. If this is allowed to continue, there will be a fuel energy crisis. Therefore, to prevent this, it is necessary to make efforts to reduce the use of fuel in transportation by

making Electric Motor Vehicles or *Kendaraan Bermotor Listrik (KBL)*.

With this *KBL*, it will save the energy needed for transportation. *KBL* is a vehicle that is driven by an electric motor and gets its power supply from the battery directly in the vehicle or from the outside. *KBL* is one of the technological achievements for alternative energy other than oil and gas. The transportation sector plays an important role in determining national energy demand. The provision of energy for transportation requires more special attention.

The growth in the number of vehicles from year to year is quite high. During the period 2000-2010, the number of vehicles increased from 18.98 million units in 2000 to 77.13 million units in 2010 or grew by an average of 15.1% per year. The switch from conventional vehicles to *KBL* will reduce the high dependence of the transportation sector on fuel oil. Therefore, the success of the acceleration of the *KBL*

program must be supported by adequate electric energy supply.

2. RESEARCH METHODS

The research method used is library research method. Library research is one of the qualitative methods where the research is carried out in the library, with documents, archives and other types of documents as research material (Prastowo, 2012).

3. THE DEVELOPMENT OF ELECTRIC-BASED VEHICLE IN INDONESIA

On the technology platform, the technological capabilities that exist in this country can balance the existing technology abroad. However, the ability to master battery technology in this country is two levels lower than mastery of foreign countries. Currently, domestic battery research has only reached 200 Wh/kg, so it is hoped that Indonesian researchers can conduct research activities up to 500 Wh/kg. In terms of electric motors, Indonesia currently has mastered multimotor-single speed technology, while overseas technology has reached multimotor-multi speed.

Indonesia currently has produced various types of electric cars at the assembly stage. Some components of electric cars that can be made by Indonesia itself include platforms/frames/chassis, breakets/mounts, vehicle bodies, and other supporting components. Electric car bodies can use composite materials where *Sebelas Maret University (UNS)* has competence in making natural fiber-based composite materials with basic materials originating from this country. Currently, other main components of electric cars are still being imported, such as batteries, motors, electronic control systems, and charging systems. Research on other main components is being carried out jointly by universities and research institutions that are members of the National Electric Car Team. The National Electric Car Team is supported by several *BUMN* and private companies. There are several companies in *BUMN* that can play a role in the development of the national electric car industry, including:

1. *PT PLN*, can prepare a charger or an electric car battery charger for households;
2. *PT Pindad*, capable of retrofitting a hatchback saloon car (small saloon car/city car) where the vehicle is modified into an electric car with a capacity of 2 passengers;
3. *PT Dirgantara Indonesia (PT DI)*, made a prototype of an electric car called the "gang car" where the car is designed to be agile through the alleys in certain areas;
4. *PT Industri Kereta Api (INKA)*, and

5. *PT Len Industri*, in mastering pulse width modulation (PWM) technology using a digital signal processing (DSP) processor.

Other than *BUMN*, the private sector also helps in the development of electric vehicles in Indonesia. *PT Nipress* has published the entire manufacturing process, testing, laboratory, and standardization related to lithium batteries. The module system is divided into modules for electric buses, modules for MPV-type electric cars, modules for city cars, and modules for sports cars. The module was determined based on agreement and the results of scientific discussions, one of the decision maker was Bambang Prihandoko from *LIPI* who is a battery expert in Indonesia.

There are also universities that help the development of electric vehicles in Indonesia, such as *UI, ITB, UGM, ITS* and *UNS*. *Sebelas Maret University (UNS)* as one of the universities involved in the national electric car program under the coordination of the Ministry of Education and Culture has been conducting research on electric cars since 2009. The national electric car made by *UNS* was named *Molina*. Other than electric cars, *UNS* has also made cars with a combination of electric motors and combustion engines as the driving force or called hybrid cars. The electric car program at *UNS* is fully supported by its civitas ranging from professors to technicians and administration staff. *UNS'* main competence in electric cars is in composite bodies where *UNS* has the ability to manufacture electric car bodies with composite materials based on natural fibers which have advantages, they are light weight and good strength with base materials originating from this country. Currently, *UNS* does not have a laboratory or testing facilities for electric cars and their components. *UNS* has facility for testing conventional engines or combustion engines, but they have not been used optimally. In the future, *UNS* will prepare dyno test, a vehicle test equipment, for 4-wheeled vehicles. Besides electric car bodies made from composites, *UNS* will conduct research on electric motors and plan to develop air conditioning (AC) with a DC motor on the compressor. *UNS* is also developing a smart intelligent control system where with using this system energy, consumption can be saved by 10%. In the *Molina Team (UI, UGM, ITB, UNS, and ITS)*, the *UNS* team is focused on making electric motors and batteries independently.

However, there are several challenges in developing electric cars in Indonesia. These challenges are categorized as technical problems or technological factors of electric cars that can be solved through research and development by a technical team, while non-technical problems require handling in the form of support from the government through a policy. The

following will describe some of the challenges faced in developing the national electric car industry:

1. Limited mileage of electric cars;
2. Car prices are still expensive;
3. Infrastructure is not yet supported;
4. The government needs to take sides with the national electric car;
5. People's habit of filling fuel;
6. The level of domestic content of electric car components;
7. Supporting industries; and
8. No market share

The government must create an electric car market. For the success of the national electric car industry program, real support from the government and all parties involved is needed. The government and companies under auspices of *BUMN*, both at the central and regional levels, must pioneer the use of national electric cars by using electric cars created by the youth of the nation as their operational service vehicles. This is necessary to encourage the formation of a national electric car industry in order to realize the independence of the domestic industry.

4. ELECTRIC VEHICLES CAN SUPPORT GOVERNMENTS IN FISCAL OR NONFISCAL POLICIES

One of the efforts to accelerate the Battery-Based *KBL* program for road transportation as mandated in Presidential Regulation 55/2019 is through the provision of incentives by the Central Government and Regional Governments, which can be in the form of fiscal incentives and non-fiscal incentives. This mandate was then stated in *Pergub 3/2020* through the provision of fiscal incentives in the form of regional tax exemptions in the form of *BBNKB*.

One of the determining factors for the success of electric vehicles in penetrating the market is the existence of policy support from the government. However, one of the main obstacles is the price of electric vehicles themselves, which are much more expensive than conventional vehicles. To overcome this, fiscal incentives are needed that can lower the price of electric vehicles as well as the total cost of ownership. Non-fiscal policy instruments are also needed to increase consumer attractiveness towards electric vehicles. Without adequate and consistent policy support from the government, electric car manufacturers and consumers will not be quite interested in switching to electric vehicles.

In general, there are two kinds of policies for developing electric vehicles: supply-side and demand-side instruments. From the supply side, development and commercialization/production and policy instruments can be in the form of research support, setting regulations, and providing industrial infrastructure. From the demand side, markets can be created through the provision of financial and non-financial incentives. Indonesia is included in the second group because the automotive industry is more focused on production to meet domestic market demand. Indonesia must focus on policy instruments to open the market for electric vehicles first to create economies scale for domestic production. Incentives on the supply side that focus on commercialization need to be prepared to support the competitiveness of the domestic electric vehicle industry when the market is established. Of the various forms of demand-side incentives, upfront fiscal incentives are an important instrument because they play a role in reducing the difference in purchase prices between electric and conventional vehicles. Some of the instruments commonly used in fiscal policy include:

1. Tax exemptions and vehicle rebates based on CO₂ emissions are examples that are commonly applied. In Norway, the government has exempted electric vehicles from import taxes and value added taxes (VAT) since 1990. The amount of VAT in Norway (25%) makes tax exemptions have a significant effect on the competitiveness of electric vehicles against conventional vehicles. Other countries with lower tax rates even implementing a direct subsidy scheme for the purchase of electric vehicles (IEA, 2013).
2. Stipulate that vehicles with emissions of less than 130 gCO₂/km are entitled to a discount, (France) while vehicles with emissions of more than 160 gCO₂/km will must pay additional fees (Monschauer & Kotin-Förster, 2018). Recurring fiscal incentives are another method of increasing the penetration of electric vehicles. One of the methods used is the application of an annual tax based on CO₂ emissions.
3. The imposition of a carbon tax on fuel oil (*BBM*) is considered successful in reducing emissions and increasing the penetration of electric vehicles. Research in Singapore (Chua & Nakano, 2013), Sweden (Andersson, 2017), and Japan and Europe (Stern, 2007) indicates the effect of carbon taxes on consumer behavior towards technology. In addition, the implementation of the Time-of-Use (TOU) electricity tariff policy can also reduce operational costs and increase consumer preferences for electric vehicles. The TOU policy makes electricity tariffs outside peak load times cheaper than peak load times and can reduce fuel

costs for electric vehicle owners by 52%-59% (Zethmayr & Kolata, 2019).

Non-financial incentives can provide additional benefits from using electric vehicles. Some of the commonly used instruments include:

1. Exemption of vehicle restriction rules (odd-even rules in the context of DKI Jakarta, Indonesia);
2. Permits to use special lanes (such as bus lanes in China and Norway, or busway lanes);
3. Access to low emission areas (or vehicle-free lanes for the Indonesian context); and
4. Free parking (in USA, China, Europe);
5. Development of charging infrastructure to address consumer concerns about the distance traveled by electric vehicles (range anxiety); and
6. CAFE (Corporate Average Fuel Economy) standards play a role in increasing the penetration of electric vehicles and reducing the market share of conventional vehicles (United States).

The establishment of mandatory fuel economy standards policies and motor vehicle exhaust emission standards is another instrument that can encourage the diffusion of the electric vehicle market. The fuel economy policy is even one of the important instruments that also has an impact on the supply side, by encouraging manufacturers to sell more fuel-efficient and low-emissions vehicle products, which are the advantages of electric vehicles.

5. POLICY RELATED TO TAXATION OF ELECTRIC-BASED VEHICLES IN INDONESIA

Tax payment is an obligation for people who own motor vehicles. Law Number 28 of 2009 states that the Motor Vehicle Tax is a tax on the ownership and/or control of motor vehicles. The motor vehicle tax applied in the province is based on the provincial regulation which is used as the operational and technical legal basis for the realization of the imposition and collection of motor vehicle tax in the province as well as the governor's decision on motor vehicle tax as a rule for implementing regional regulations on *PKB* in the province.

However, the provision of incentives is not subject to *BBNKB* tax on the transfer of ownership of Battery-Based Electric Motor Vehicles (Battery-Based *KBL*) for Road Transportation, name of Motor Vehicle for Battery Electric Vehicle for Road Transportation.

The Ministry of Finance emphasized that electric cars receive tax incentives or will not be subject to Luxury Goods Value Added Tax (*PPnBM*) on condition that the proportion of domestic component

content (*TKDN*) increases above 60%. To encourage the production of electric cars in Indonesia, the government has provided two main regulations to ease manufacturers. First is *PPnBM* on imports of capital goods in the form of machinery and factory equipment in accordance with Government Regulation No. 12 of 2001 and PP No. 31 of 2007. Second, exemption from import duty on imports of machinery and goods and materials for industrial development and manufacture in the context of planting capital (PMK-176/PMK.011/2009 stdd PMK-76/PMK.011/2012). The government must treat electric cars as equal or better than low cost green cars (LCGC). Incentives are given to reduce the burden on consumers by eliminating the obligation to pay *PPnBM*, but still paying 10% VAT and 10% regional motor vehicle tax. In *PP* No. 41 of 2013 concerning Taxable Goods Classified as Luxury in the Form of Motor Vehicles Subject to Sales Tax on Luxury Goods, it is stated that LCGC cars receive separate incentives. In addition, the government will increase the incentive if there is an additional 15% automatic transmission technology and or if it provides security features as much as 10%. The tax incentives for national electric cars that will be provided by the government through the Ministry of Finance are input from the Ministry of Industry. The Ministry of Industry conducts studies and analyzes through technical team discussions involving research institutions, the private sector, Gaikindo, and other relevant parties. The technical team will detail the components of the electric car and determine which parts require subsidies.

In accordance with the provisions of Article 17 paragraph (1) and paragraph (2) of Presidential Regulation Number 55 of 2019, abbreviated as *Perpres* 55/2019, provides *BBNKB* tax incentives for *KBLs* for Air quality measures. The main objective of the enactment of Presidential Decree 55/2019 is to improve energy conservation, energy efficiency, and energy security in the transportation sector, and for the fulfillment of clean energy, clean and environmentally friendly air quality, and as a form of Indonesia's dedication to reduce greenhouse gas emissions, so the government considers that it is necessary to encourage the acceleration of the Battery Electric Vehicle (*KBL*) program for road transportation. Because in accordance with the 1945 Constitution in Article 28A states that "Everyone has the right to live and the right to defend life and his life". Everyone is also entitled to the protection of himself, his family, prestige, values, and property under his control, and has the right to a sense of protection and security from any threat or fear to do or not do something. It is explained in Article 28H(1) of the 1945 Constitution, "Everyone has the right to live in physical and spiritual affluence, to have a dwelling place to live, and to have a good and healthy living environment and the right to get health services". The 1945 Constitution of the Republic of Indonesia states

that a good and healthy environment is a human right and a constitutional right for every Indonesian citizen. Therefore, the state government and all stakeholders are required to protect and carry out the environment in the realization of sustainable development so that the Indonesian environment can abide a source and life support for the Indonesian people and other living creatures. In Article 2 of Law no. 32 of 2009 concerning Environmental Protection and Management or often referred to as *UUPLH* there is an explanation regarding what is meant by "principle of State responsibilities" are:

1. The state ensures that the exertion of natural resources will provide the maximum benefit for the welfare and quality of life of the people both present and future generations.
2. The state ensure the rights to a good and healthy environment.
3. The state averts the use of natural resources that cause pollution and/or damage to the environment.

Rights in *UUPPLH* are contained in Article 65 and Article 66, they are; In Article 65:

1. Everyone has the right for a good and healthy environment as part of human rights.
2. Everyone has the right for environmental education, access to information, access to participation, and access to justice in complying the right to a good and healthy environment.
3. Everyone has the right to submit proposals and/or activities that are estimated to have an impact on the environment.
4. Everyone has the right to play a role in the protection and management of the environment in accordance with the laws and regulations.
5. Everyone has the right to make a complaint due to presumptions of environmental pollution and/or destruction.

In Article 66: Anyone who combats for the right for a good and healthy environment cannot be prosecuted criminally or be sued in a civil manner.

Likewise in Article 9 of Law no. 39 of 1999 concerning Human Rights explains that:

1. Everyone has the right to live, maintain life and improve their standard of living.
2. Everyone has the right to be peaceful, safe, peaceful, happy, physically and mentally prosperous.
3. Everyone has the right for a good and healthy environment.

Along with the goal of regional autonomy which brings government services closer to the people, the function of regional taxes is not merely to fill the regional treasury (*APBD*), because this is not in accordance with the objectives of regional autonomy. In the definition of tax as filling the regional treasury, the emphasis of tax is placed on the budgetary function, although there are other functions, that is the regulatory function.

Therefore, to increase accountability for the implementation of regional autonomy, regional governments are given the authority to set their own implementing regulations regarding the collection of regional taxes and levies. One of the types of local taxes regulated in Law 28/2009 is *BBNKB*, which is a type of tax whose collection authority is only given to regional governments at the provincial level. Based on Article 9 of Law 28/2009, the transfer of ownership of Motor Vehicles is a tax object from the Tax on Transfer of Ownership of Motor Vehicles (*BBNKB*). Included in the definition of Motor Vehicle are wheeled motor vehicles and their trailers, which are operated on all types of land roads, except:

1. a train;
2. Motor vehicles that are merely used for the purposes of state defense and security;
3. Motor vehicles owned and/or controlled by embassies, consulates, representatives of foreign countries on the principle of reciprocity and international institutions that obtain tax exemption facilities from the Government; and
4. other tax objects stipulated in the Regional Regulation.

In accordance with the mandate given by Law Number 23 of 2014, concerning Regional Government, abbreviated as Law 23/2014, the regional government of DKI Jakarta stipulates implementing regulations related to *BBNKB* tax collection through DKI Jakarta Regional Regulation Number 9 of 2010 concerning Customs Transfer of Motor Vehicles, abbreviated as *Perda DKI 9/2010*. *Perda DKI 9/2010* which had been enacted on November 3, 2010 adds an exception to the definition of Motor Vehicle, that is Motor Vehicles that are owned and/or controlled by manufacturers or importers which are solely provided for exhibition purposes and not for sale. Based on the explanation above, it is known that Electricity-Based *KBL* is not included in the exception to the definition of Motor Vehicles in both Law 28/2009 and *Perda DKI 9/2010*. In addition, Article 9 paragraph (3) letter d of Law 28/2009 also provides a limitation that exceptions to the definition of other Motor Vehicles are stipulated in Regional Regulations. Therefore, Pergub 3/2020, if studied based on the theory of legal validity, one of which requires the existence of conformity between

lower or specific regulations with higher level regulations or general nature, can be said to be a regulation that is contrary to Law 28/2009.

In early July 2021, President Joko Widodo decided to change the sales tax rate on luxury goods (*PPnBM*) that applies to electric cars. The decision is contained in Government Regulation (*PP*) 74/2021 concerning Amendments to *PP* 73/2019 concerning Taxable Goods Classified as Luxury in the Form of Motor Vehicles subject to *PPnBM*. This regulation was issued to support the government's policy to accelerate the reduction of exhaust emissions from motor vehicles. The purpose of reducing emissions for Electric-Based Vehicles is to support the Government's policy to accelerate the reduction of exhaust emissions from motor vehicles. It is necessary to accelerate the development of battery-based electric motor vehicles and their ecosystem. It is necessary to make adjustments to the provisions regarding Sales Tax on Luxury Goods for Plug-in Hybrid Electric Vehicles and Hybrid Electric Vehicles in Government Regulation Number 73 of 2019 concerning Taxable Goods Classified as Luxury in the Form of Motor Vehicles Subject to Sales Tax on Luxury Goods. In *PP* 74/2021 rules, the government revised Articles 26 and 27, both of which regulate *PPnBM* tariffs on motorized vehicles that use full hybrid technology. In Article 26, the government decided to increase the tax base (*DPP*) for *PPnBM* motor vehicles using full hybrid technology from 13.33% to 40% of the selling price. The *PPnBM* tariff of 15% on *DPP PPnBM* of 40% is imposed on full hybrid motor vehicles with a capacity of up to 3,000 cc with fuel consumption of more than 23 kilometers per liter or CO₂ emission levels of less than 100 grams per kilometer. In Article 27, the government raised the *DPP PPnBM* for full hybrid motor vehicles from the initial 33.33% of the selling price to 46.66% of the selling price. The *PPnBM* tariff imposed is still the same, at 15%. The *PPnBM* tariff and *DPP* in Article 27 apply to full hybrid motor vehicles with a cylinder capacity of up to 3,000 cc with fuel consumption of more than 18.4 kilometers per liter to 23 kilometers per liter or having CO₂ emission levels ranging from 100 grams per kilometer to 125 grams per kilometer.

Besides revising Article 26 and Article 27, the government also revised Article 36 which regulates *PPnBM* tariffs on plug-in hybrid electric vehicles, battery electric vehicles, and fuel cell electric vehicles and added 1 new article, namely Article 36A. In Article 36, only motor vehicles with battery electric vehicle technology and fuel cell electric vehicles are subject to 15% *PPnBM* with *DPP* 0% of the selling price. In the previous provisions, there are motorized vehicles with plug-in hybrid electric vehicles technology. Especially for motor vehicles with plug-in hybrid electric vehicles technology, in the latest regulations, the *PPnBM* imposed is 15% with *DPP* of 33.33%. Specific

provisions for plug-in hybrid electric vehicles are contained in Article 36A. Jokowi signed this regulation on July 2, 2021, and promulgated on the same date. However, this new rule will take effect on October 16, 2021.

The issuance of laws and regulations must consider the burden of government responsibility in providing for the needs of the citizen including by ensuring that the citizen can live in an environment that has good environment quality. So in this case, the consistency of the government in harmonizing laws and regulations is needed which is also followed by the participation of the local community in supporting government programs to improve the quality of life of the people in their area.

6. CONCLUSION

The use of Electric-Based Vehicles (*KBL*) produced by Indonesia is one of the ideals of the Indonesian people today. The government and *BUMN* must pioneer the use of national electric cars by using electric cars created by the youth of the nation as their operational official vehicles. This was done as an initial step to open the electric car market segment so that the public could see the seriousness of the government in developing the national electric car industry. Based on Article 9 of Law 28/2009, the transfer of ownership of Motor Vehicles is a tax object from the Tax on Transfer of Ownership of Motor Vehicles (*BBNKB*). Included in the definition of Motor Vehicle are wheeled motor vehicles and their trailers, which are operated on all types of land roads, except trains; Motor Vehicles that are solely used for the purposes of state defense and security; Motor Vehicles owned and/or controlled by embassies, consulates, representatives of foreign countries on the principle of reciprocity and international institutions that obtain tax exemption facilities from the Government; and other tax objects stipulated in the Regional Regulation.

It can be concluded that *KBL* is not an exception in Article 9 of Law 28/2009 so that *KBL* owners also need to pay taxes in accordance with applicable regulations, in accordance with Government Regulation (*PP*) 74/2021 concerning Amendments to *PP* 73/2019 regarding Taxable Goods Classified as Luxury in the form of Motor Vehicles Subject to *PPnBM* which applies to electric-based vehicles. This regulation was issued to support the government's policy to accelerate the reduction of exhaust emissions from motor vehicles. The purpose of reducing emissions for Electric-Based Vehicles is to support the Government's policy to accelerate the reduction of exhaust emissions from motor vehicles. It is necessary to accelerate the development of battery-based electric motor vehicles and their ecosystem. It is necessary to make adjustments to the provisions regarding Sales Tax on

Luxury Goods for Plug-in Hybrid Electric Vehicles and Hybrid Electric Vehicles in Government Regulation Number 73 of 2019 concerning Taxable Goods Classified as Luxury in the Form of Motor Vehicles Subject to Sales Tax on Luxury Goods. That way, people will get Human Rights that people have the right for a good and healthy environment.

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