



The Challenge of Local Revenue Enhancement through Boarding House Taxation Policy in Yogyakarta City

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Abstract

Introduction to The Problem: In early 2019, the total data on Building Permits for Boarding Houses in Yogyakarta City reached more than 700 houses, and the local tax revenue for the category Boarding House did not reach 40 homes yearly. The urgency of enforcement of the boarding house tax regulation is relevant to increasing tax compliance rates and local revenue from boarding houses.

Objective Study: This study examines the enforcement of the Regional Regulation of Number 1 of 2011 on Local Tax and the obstacles to its implementation using the law system components, the law enforcement factors and the law enforcement elements.

Methodology: The data used are primary data and secondary data through a regulatory approach. Data collection uses a structured interview process by interviewing five interviewees who handled the enforcement of boarding house tax rules.

Findings: The service quality of tax authority factor, law enforcement officers' factor, and tax sanctions factor have adjusted the public needs (as a legal benefit) and legal certainty while does not provide justice to the community. Implications of the study for tax policy of the Boarding House category are the imposition of criminal sanctions and administrative sanctions against non-compliance boarding house taxpayers, the coordination between tax authorities and law enforcers to enforce boarding house tax rules, and the development of boarding house tax regulations relating to the tax sanctions theory.

Paper Type: Research Article

Keywords: Boarding house tax; Local tax; Tax compliance; Law enforcement

Introduction

The Revenue Statistics in Asian and Pacific Economies 2020 published by The Organization for Economic Cooperation and Development (OECD) shows that Indonesia had the lowest Tax-to-GDP 2018 ratio in the Asia Pacific. Indonesia got an 11.9% Tax-to-GDP 2018 ratio from the overall average of 34.3% (OECD, 2020). It is because the Indonesian tax system does not use the broad tax ratio of the OECD to calculate the Tax Ratio, but the 2001 Government Finance Statistics Manual (GFSM)



standard was published by the International Monetary Fund (IMF) (Setiawan, 2015). Indonesia's tax ratio is the tax imposed by the central government and does not take into account local taxes. In 2019, Indonesia began to adopt the definition of tax ratio in the broad sense by starting to take into account the royalty acceptance of natural resources as an Administration of Non-Tax State Revenue (PNBP) (Rosadi, 2019).

Based on the study in Asia, Tax-to-GDP is important because the government's effectiveness and the quality of taxation authorities positively affect the tax ratio (Aizenman et al., 2019). Robert Pakpahan, Director of the Directorate General of Taxation of the Republic of Indonesia, stated that the Tax Ratio was used to measure the government's ability to finance national needs through the State Budget (APBN) (Kementerian Keuangan Republik Indonesia, 2019). Although the tax ratio is relatively low, according to the data of the APBN posture Year 2016 to 2019, the tax is always the biggest source of acceptance to the State Budget for the last four years, with a proportion of taxes to the state budget over 80% annually (Table 1).

Table 1. The Role of Tax on Indonesian State Budget 2017 to 2020

Budget Year	Total (in IDR trillion)		Percentage Tax: State Budget
	State Budget	Tax	
2019	2.165,1	1.786,4	82,5%
2018	1.894,7	1.618,1	85,4%
2017	1.750,3	1.498,9	85,7%
2016	1.822,5	1.546,7	84,9%

Source: Posture Data of the State Budget by Ministry of Finance. June, 2020.

Meanwhile, Indonesia's average local tax ratio in 2018 was 1.2%. According to the Benedictus Raksaka Mahi, this ratio is quite low compared to Australia at 4.4% (Wildan, 2019). The tax ratio of local taxes is calculated by dividing the tax revenue aggregation of district/city/provincial by Gross Regional Domestic Product (GRDP). The Indonesian tax capacity from 2012-2016 is 3.26% of GRDP.

Table 2. Hotel Tax Realization Report in Yogyakarta City

Year	Fiscal Budget	Realization	Percentage
2015	87,000,000,000	93.609.098.453	107.60
2016	112,000,000,000	114.772.723.848	102.48
2017	118,000,000,000	129.599.729.238	109.83
2018	146,000,000,000	150.256.960.050	102.92
2019	152,000,000,000	163,969,302,385	107.87

Source: Financial and Assets Management Agent Yogyakarta. June, 2020.

Law Number 23 of 2014 has authorized local government through regional autonomy, one of which is by managing local tax as a potential source of regional revenue (Iskandar, 2016; Prasetya R & Satriyo, 2015). Yogyakarta Special Region (DIY) Government is a regional autonomy and has the predicate as a city of education



(Rumani, 2018). Data from the Central Statistics Agency showed that there were 45 private colleges in the city of Yogyakarta with a total of 77,101 students (BPS DIY, 2018). These students are not only from Yogyakarta but also from outside of the area, impacting the increasing demand for temporary housing known as a boarding houses (Hidayat, 2017). Based on Investment and Licensing Office (DPMP) Yogyakarta data, the total Building Permit for *Rumah Kos*, *Indekos* or *Pondokan* from 1959 until 2018 reached 710 boarding houses. These data are the accumulation of a boarding house for various rooms.

Table 3. Income Tax Report of Boarding House and Building Permits in Yogyakarta City

Category	Total Data			
	2015	2016	2017	2018
Building Permits	570	622	660	710
New Building Permits of Boarding House	35	52	38	50
Income Tax of Boarding House	8	15	17	21

Source: Board of Financial and Assets Management (BPKAD) of Yogyakarta City and Investment and Licensing Office (DPMP) of Yogyakarta City, December 2019.

Based on article 4 paragraph (2) of the Regional Regulation of Yogyakarta City Number 1 of 2011, the hotel tax object includes boarding houses with more than 10 rooms with Air Conditioner so that Yogyakarta Government does not separate the boarding house income tax from the hotel tax. The hotel tax realization data in Yogyakarta was always above 100% from 2015 to 2019 (Table 2). Meanwhile, based on the Finance and Asset Management Board of Yogyakarta (Table 3), only 21 boarding houses from 710 boarding houses in Yogyakarta City are paying the boarding house tax in 2018. Based on the data above, the Yogyakarta City Government has a high potential for boarding house tax, but it has not been optimally effective.

Table 4. Income Tax Report of Boarding House and Building Permits in Yogyakarta City

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Regional Regulations of Yogyakarta City Number 1 of 2011 on Local Tax regulates the calculation and tax reporting of the boarding house tax in Yogyakarta City. The tax collection system in Yogyakarta is a Self-Assessment System where taxpayers are



required to play an active role. Normatively, Self-Assessment System is influenced by the level of taxpayer compliance to pay taxes voluntarily (voluntary compliance) (Arum, 2012). In this research, the tax compliance level is characterized by the compliance of the boarding house owner. The owner of the boarding house in Yogyakarta city has two obligations, namely paying the income tax according to Government Regulation Number 46 of 2013 and collecting from the renter also depositing the boarding house tax according to Article 5 paragraph (2) in Regional Regulation of Yogyakarta City Number 1 of 2011. The indication of the boarding house owner's low compliance level is when the realization of the boarding house tax is lower (Ardhyanto, 2017). The integration among the government as a policymaker, supervisor, and tax service authority with the willingness of the boarding house owner as a collector and the tax deposit category of the boarding house is necessary to optimize the collection of taxes (Sulistianingtyas et al., 2018).

This research is a further development of Nuraini's (2019) research which analyzed the influence of taxpayer perception on tax knowledge, taxpayer environment, quality of tax service authorities, and tax sanctions on the taxpayer's compliance level. The purposive sampling method is used to limit research subjects, research objects, and research areas. The research subject is a boarding house owner with more than 10 rooms with air conditioner facilities in the Umbulharjo, Kotagede, Gondokusuman, Wirobrajan, and Gondomanan sub-districts. Nuraini (2019) used survey methods and short interviews to collect data from 32 boarding house owners. The contribution of the research is the importance of law enforcement for hotel tax policy on boarding houses in Yogyakarta City, as well as the separation of the tax object of a boarding house with other tax objects. This research examined the same area of Yogyakarta City with the same tax object: the boarding house.

Tax authorities have arranged boarding house tax through Yogyakarta City Regulation Number 1 of 2011 on Local Tax. However, there is still a tax gap. The tax gap is a significant difference between the building permit data of buildings and the realization data on the boarding house. The condition indicates weak law enforcement for the boarding house tax in Yogyakarta city.

According to Soerjono Soekanto, there are 5 (five) factors influence law enforcement. There are the legal factor, the law enforcement officers factor, the facilities factor, the community factor, and the cultural factor. This research adopted the tax sanctions variable and quality tax service authority variable from Nuraini (2019), then elaborated with three other factors of law enforcement: legal factors, law enforcement officers, and facilities. It limits the discussion in the scope of legal research (Nuraini, 2019). Therefore, researchers are interested in analyzing the law enforcement of Yogyakarta City Regulation Number 1 of 2011 on Local Tax, especially for the boarding house tax.



The urgencies of this legal research are to analyze the enforcement of the Regional Regulation of Yogyakarta City Number 1 of 2011 concerning Local Tax on boarding houses by the Local Government of Yogyakarta City and to analyze the obstacles to the enforcement of the regulation for increasing local revenue through boarding house tax. The contribution of this legal research would give suggestions for the Yogyakarta City Government on tax policy that the enhancement of local revenue could be obtained through the law enforcement of Regional Regulation of Yogyakarta City Number 1 of 2011 concerning Local Tax on boarding house tax.

Methodology

This research is empirical legal research using an empirical juridical approach. According to Soerjono Soekanto, empirical research is classified as sociological research, a study conducted on actual legal provisions or real conditions occurred in society (Soekanto, 1983). After the data has been collected, the researcher then researches legal identifications and legal effectiveness to find solutions to problems.

Primary data was obtained using field studies from August to September 2020, through structured interviews with interviewees and informants at the Yogyakarta City Investment and Licensing Office, the Yogyakarta City Financial and Asset Management Agency, and the Yogyakarta City Public Order Enforcers. Structured interviews are conducted as direct communication with interviewees who directly handled the problem of implementing tax law enforcement on boarding houses in Yogyakarta City. Secondary data was obtained from the results of library research by conducting a literature study. Research locations for interviewees and key informants are the Yogyakarta City Legal Department Office, the Yogyakarta City Investment and Licensing Office, the Yogyakarta City Financial and Asset Management Agency Office, and the Yogyakarta City Public Order Enforcers Office.

Data processing is conducted by selecting and classifying legal materials to get an overview of the research results. Data analysis is conducted in a descriptive qualitative analysis. The qualitative method analyses the data related to the problem under study, then it is selected based on logical thinking, and the phenomenon is described clearly and in detail. Data presentation is done using inductive deductive logic (general-specific) and then finding the logical relationship between the related aspects. Therefore, descriptive research will provide an overview or explanation of the research's subject and object as the research results (Fajar & Achmad, 2015).

Results and Discussion

Enforcement of Yogyakarta Regional Regulation Number 1 of 2011 on Local Tax to Increase Local Income

An Overview of Boarding House Tax Regulations in Yogyakarta

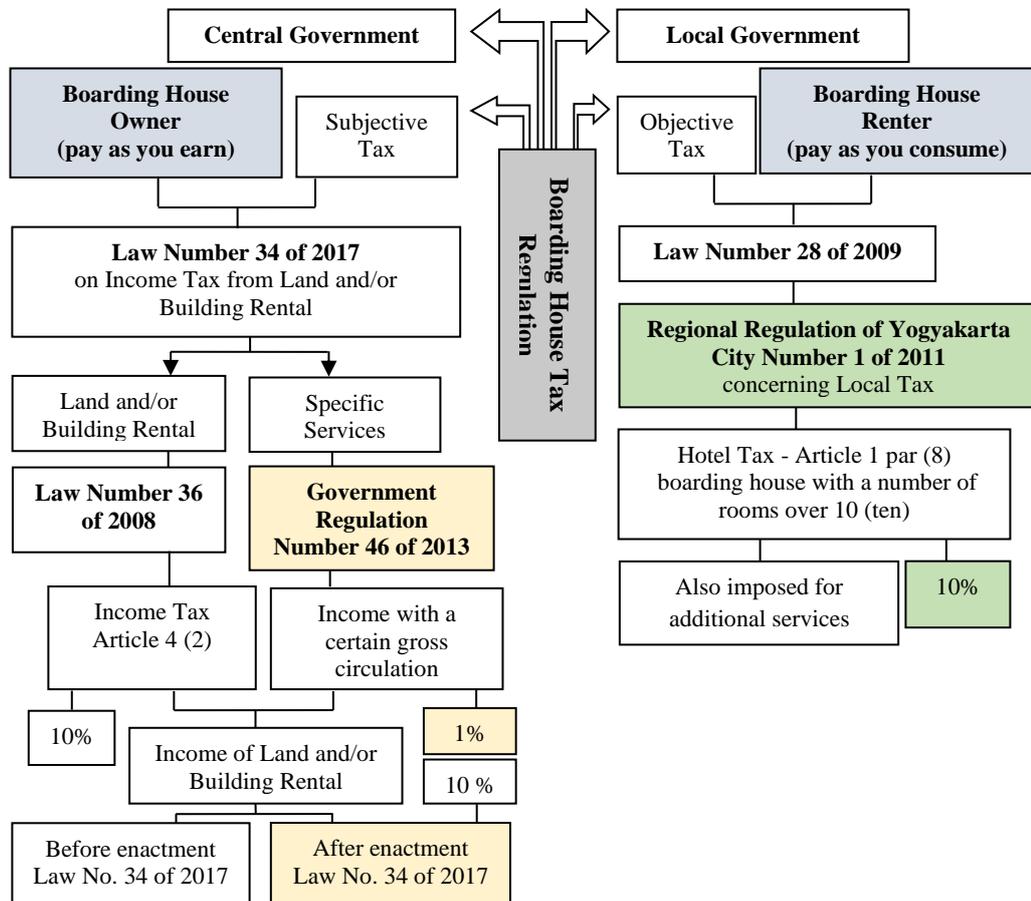
A hotel tax is a tax on hotel services (Octaviany et al., 2021). It includes lodging houses that charge a fee. Article 4 paragraph (2) of Yogyakarta City Regional Regulation No.



1 of 2011 on Local Tax mentions that the object of hotel tax includes a boarding house with more than 10 (ten) rooms and has Air Conditioner (AC) facilities. The regulation became a legal basis for the imposition and tax collection of boarding houses by the Yogyakarta City Government. The judicial requirement that must meet is if the boarding house has more than ten rooms and if it has an air conditioner. Therefore, if the boarding house does not have more rooms than 10 (ten) or does not have air conditioners (AC) facilities, then the Yogyakarta City Government will not impose the boarding house tax.

The object of hotel tax based on Article 4 paragraph (1) of Regional Regulation of Yogyakarta City No. 1 of 2011 on Local Tax is a service provided by the hotel with payment, including supporting services. Under Article 4 paragraph (3) of the same rules, the explanation of support services is also subjected to hotel and boarding house tax. Not all services provided by the lodge are taxed. Article 5 paragraph (1) of Yogyakarta City Regional Regulation No. 1 of 2011 on Local Tax mentions some exceptions that do not include tax objects. The boarding house has more than 10 (ten) rooms and has air conditioning facilities classified as a taxable *taatbestand*. Based on Article 4 paragraph (2) of Yogyakarta City Regional Regulation Number 1 of 2011, the boarding house is a local tax object and enters the category of hotel tax object.

Figure 1. Boarding House Tax Regulation





The common misinterpretations by the taxpayer regarding the local tax terms are the subject of taxes and taxpayers because both have different legal understanding and consequences. A tax subject based on Article 5 paragraph (1) of Regional Regulation of Yogyakarta City No. 1 of 2011 on Local Tax is a private person or entity that may be subject to local taxes. Thus, anyone, whether a person or entity, qualifies objectively specified in local tax regulation will be the tax subject (Siahaan, 2004). Taxpayers based on Article 5 paragraph (2) of Regional Regulation of Yogyakarta City No. 1 of 2011 on Local Tax are private persons or entities based on local tax laws that are required to make payment of taxes payable, including tax collectors or tax cutters. Therefore, a person or entity becomes a taxpayer if local regulations have determined him to make tax payments and a person or entity authorized to collect taxes from the tax subject. Taxpayers can be both a tax subject and not a tax subject. Taxpayers who are not the subject of tax are authorized to collect taxes from the tax subject.

Based on the legal factor of law enforcement concerning taxation, boarding house taxes are classified into subjectively tax and objective tax. As a subjective tax approach, the boarding house is classified as lodging services under Government Regulation No. 34 of 2017. Boarding house owners with gross circulation below 4.8 billion rupiahs are subject to tax under Government Regulation No. 46 of 2013 with a rate of 1%, while gross circulation above 4.8 billion rupiahs will be subject to tax under income tax law (Aji, 2018). On the other hand, the objective tax is a local tax. It is imposed on the tenant of the boarding house (consumer), while the tax collector of the boarding house is the owner. Therefore, the owner of the boarding house in Yogyakarta city has two obligations; paying the income tax, collecting from the renter, and depositing the boarding house tax according to the Regional Regulation of Yogyakarta City Number 1 of 2011 (Figure 1).

The tax type will determine whether the subject of the tax is the same as the taxpayer or not. Article 5 paragraph (1) and Article 5 paragraph (2) of the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax define that the understanding of tax subjects and taxpayers differs. The definition of the hotel tax subject is a private person or entity that makes payments to a private person or entity that executes the hotel business. On the other hand, a hotel taxpayer is a private person or a Corporate person who works for the hotel or the hotel entrepreneur. Based on these rules above (Figure 1), the Yogyakarta City Government separates the definition of tax subjects (tenants of boarding houses) and taxpayers (owners/entrepreneurs of boarding houses).

The basis of the imposition of hotel tax under Article 6 of the Regional Regulation of Yogyakarta City No. 1 of 2011 on Local Tax is the amount of payment received by the hotel. Payment is the amount of money that must be paid by the tax subject to the taxpayer for the sale price of both the amount of money paid and the reimbursement that should be requested by the taxpayer in exchange for the use of lodging services and supporting facilities related to the hotel business. Based on Article 4 paragraph



(3), Article 6, and Article 7 of the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax, the imposition basis of boarding house tax as the category of hotel tax using the income before tax obtained by the boarding house owner from the rental, various services, and supporting facilities provided to the owner of the boarding house (landlord). In conclusion, the tax owed on the boarding house tax payable by the owner of the boarding house is the income that the Boarding House owner (taxpayer) earns from the payment provided by the tenant (or payment which should be paid to the owner of the boarding house) then multiplied by 10% (ten per cent).

According to Article 68 of the Yogyakarta City Regional Regulation Number 1 of 2011 on Local Tax, the tax period of the boarding house is the same as the hotel tax. The tax period is 1 (one) calendar month, which becomes the basis for calculation, depositing tax, and reporting the tax payable. Based on the explanation above, the tax period of the boarding house tax is at the time of the enactment of the boarding house rental or the other service provided by the boarding house (up to one calendar month).

Based on legal factors explained above, the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax clearly distinguishes taxpayer obligations from tax-subject obligations. Precisely what makes the dilemma to carry out the provision is the confusion in the interpretation and application of calculating the minimum number of 10 rooms and the efficacy of air conditioners. Article 4 paragraph (2) is a fraudulent article by taxpayers to build boarding houses with many rooms but air conditioner facilities are given only for ten rooms. The lack of legal factors causes the decline in local tax revenue because many boarding houses are deliberately not included in the criteria on boarding houses in terms of air conditioner facilities.

Repressive Efforts on The Enforcement of Boarding House Tax Rules in Yogyakarta

The imposition of repressive efforts was after the occurrence of disputes or the appearance of losses suffered by one of the parties, whose actions were in the form of law enforcement by imposing penalties or sanctions ([Prananjaya & Narsa, 2019](#)). Repressive efforts aim to reduce the number of cases certain in the future ([Ulfadani & Ali, 2019](#)).

a. Administrative Efforts in Enforcement of The Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax

Tax collection is done by first providing a letter of reprimand, warning letter, or another similar letter at the beginning of the tax collection action.

1. The Issuance of The Reprimand Letter

Article 1 of the Regulation of the Minister of Finance Number 24/PMK.03/2008 concerning Procedures for The Implementation of Billing by Distress Warrant and The Implementation of Immediate and Total Tax Collection Instruction Letter stated that a Letter of Reprimand, Warning Letter, or other similar letter is a letter issued by



the tax authorities to reprimand or warn the taxpayer to pay their tax payable ([Nasution & Aliffioni, 2018](#); [Panambunan, 2016](#)).

2. The Tax Examination

The tax examination is a series of activities to collect and process data, information, and/or evidence implemented objectively and professionally based on a standard of inspection to test compliance with local tax obligations and/or other purposes to implement the provisions of local tax laws and regulations ([Budileksmana, 2001](#)).

3. Administrative Sanctions after Tax Audit

An administrative sanction is the payment of the state losses by taxpayers who violate administrative taxation rules intending to cause deterrent effects ([Susanto, 2019](#)) for taxpayers and increase tax compliance ([Princesswara & Iskandar, 2019](#); [Sari, 2018](#)). Tax administration sanctions can be in the form of fines, interest, and increases that will be described as follows:

a) Administrative Sanctions in the form of Fines

Administrative fines are administrative sanctions imposed for violations related to tax reporting obligations. These sanctions can generally be set at a fixed amount, a percentage of a certain amount, or a multiplication of a certain amount. As for several violations, administrative sanctions in the form of fines can be supplemented by criminal sanctions. However, violations that are subject to criminal sanctions are violations of an omission or intentional nature.

b) Administrative Sanctions in the form of Interest

Administrative sanctions in the form of interest are imposed on taxpayers who do not or pay less tax. Administrative sanctions in the form of interest are imposed for violations that cause tax debts.

c) Administrative Sanctions in the form of Tax Increase

The Administration Sanctions Increase is the sanction that causes the amount of tax to be paid can be doubled. Sanctions in the form of increases are calculated by a certain percentage figure of the amount of tax that is not underpaid. If viewed from the cause, the sanction increase is usually imposed on taxpayers who do not provide the information needed to calculate the amount of tax payable.

Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax regulates the issuance of SKPDKB, SKPDKBT, and SKPDN issued by the Mayor if, within 5 (five) years, the tax owed has not been paid. It is stipulated in Article 71 paragraph (1) letter a, numbers 1 and 2 that taxpayers who own boarding houses will be subject to administrative sanctions if they have the following conditions:

- 1) based on the results of examination or other information on the Underpayment of Local Tax Assessment Letter (SKPDKB), there is a deficiency in paying taxes payable or not paying taxes owed
- 2) based on the Local Tax Return (SPTPD), it is not submitted to the Mayor or appointed Official within a certain period, and after being reprimanded

in writing, it is not submitted in time as specified in the Letter of Reprimand.

4. Boarding House Tax Billing

Based on Article 74 paragraph (1) of Yogyakarta City Regional Regulation Number 1 of 2011 on Local Tax, tax authorities can issue Local Tax Billing Letter (STPD), if hotel tax in the current year is not or is underpaid. If SPTPD research results showed a lack of payment due to miswriting and/or miscalculation, and if taxpayers are subject to administrative sanctions in the form of interest and/or fines. Based on Article 1 of Law No. 19 of 2000, a Warrant is a warrant to pay the tax payable and tax billing fees. The Distress Warrant is charged to the tax insurer ([Ibnususilo et al., 2019](#)). The regulation basis used for the local tax billing is under Article 18 to Article 24 Chapter IV of Tax Billing on the General Provisions of Taxation Law, Law No. 19 of 2000 on Tax Billing by Distress Warrant, and Regulation of the Minister of Finance of the Republic of Indonesia Number 207/PMK.07/2018 concerning Guidelines for Billing and Examination of Local Taxes.

5. Imposition of Administrative Sanctions after Tax Billing

Tax authorities will impose administrative sanctions on the taxpayers who still do not comply with tax rules by doing an illegal act in the process of tax billing under Article 74 Paragraph (1) as previously described; then, tax authorities will impose administrative sanctions. As in *cauda venenum*, the core of the enforcement of state administrative law, administrative sanctions are regulated through Article 74, Paragraph (2) and Paragraph (3) of Yogyakarta City Regional Regulation Number 1 of 2011 on Local Tax.

6. Foreclosure/Confiscation of Taxpayers' Property of Boarding House

Law No. 19 of 2000 stated that foreclosure/confiscation is the act of tax bailiff to control the tax insurers' goods, to be used as collateral to pay off tax payable according to the laws and regulations. Foreclosure can be done on taxpayers' goods if the tax payable has not also been repaid 2x24 hours after the notification of Distress Warrant or the official issues a Foreclosure Warrant (SPMP) ([Siahaan, 2004](#)). If the goods are insufficient, the tax bailiff would foreclosure the fixed property ([Hutapea & Gaol, 2020](#)).

7. Auction

Within 14 days after the foreclosure action, if the tax payable has not been repaid, then it is continued with the auction action through the State Auction Office. In this case, the forced billing fee and the cost of implementing the foreclosure for the tax that has not been paid will be charged together with the advertising fee for the announcement of the auction at the time by the tax insurers after two times 24 hours since the Distress Warrant is notified to him. The official immediately issued an Official Issues of a Foreclosure Warrant (SPMP).

b. Criminal Efforts in the Enforcement of The Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax

1. Criminal Provisions of Taxation



Local tax collection can occur properly if the taxpayer is responsible for carrying out tax obligations correctly. This ideal condition is not achievable if the taxpayer intentionally or does not meet his tax obligations or the taxpayers' omissions. Criminal sanctions in imposition and collection of local taxes for taxpayers who violate local tax regulations' provisions are needed to prevent intentional and omission conduct. These are strictly regulated in Law No. 18 of 1997 and Law No. 28 of 2009.

Based on the description of Article 174 paragraph (1) and (2) of Law No. 28 of 2009, as well as Article 89 paragraph (1) and (2) Of Yogyakarta City Regional Regulation Number 1 of 2011 concerning Local Tax, the criminal law committed by taxpayers who own boarding houses if they occur as follows:

- a) Not submitting the Local Tax Return (SPTPD);
- b) Filling out the SPTPD incorrectly;
- c) Filling out the SPTPD incompletely;
- d) Attaching incorrect information.

Based on Article 175, the prosecution of criminal acts on local tax is expired after 5 (five) years from the time of tax payable, the expiration of the tax period, or the end of the tax year concerned. The officials imposed criminal sanctions of confinement and or fine on an omission or did not fulfil the obligation of keeping the taxpayers' information submitted to them. This provision provides legal certainty against criminal acts committed by taxpayers or officials, so the termination of criminal act prosecution is 5 (five) years.

2. Boarding House Tax Investigation

Based on Article 88 paragraph (1) of The Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax, the Civil Servant Officer (PPNS) has special authority as an investigator to investigate criminal acts in the field of Boarding House Tax, as referred to in the applicable Criminal Procedural Law. The General Provisions of Taxation regulates the provision of official obligation, criminal act, and investigation in Boarding House Tax.

3. Implementation of Criminal Efforts in the Enforcement of The Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax

Based on the results of the interview with the Head of Tax Collection and Objection of Regional Revenue Sub-Section, M. Rohmad Romadhon, the enforcement of criminal provision on Local Tax stated in Article 89 paragraph (1) and (2) Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Taxation by the Regional Board of Financial and Assets Management of Yogyakarta City has not done yet. The obstacle of the criminal provision's implementation is inhibited by the limited human resources or expertise, for example, the absence of bailiffs in the Regional Board of Financial and Assets Management of Yogyakarta City. The bailiff's task is to conduct



confiscation on non-compliance boarding house taxpayers. The enforcement of criminal efforts in Yogyakarta City has not reached the imposition of criminal law.

Factors of Enforcement of the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax

Based on the Five Principles and the 1945 Constitution, the legislation contains primary values such as justice, benefit, and legal certainty. The core values at the first level are the values stated in the Five Principles. The first value stated in the Five Principles has constructed the second level value. The second value is the value contained in the 1945 Constitution that is explained below:

a. The Value of Justice Principle

Justice has the sense of putting something in place and providing something that is a right to the subject of law relating to the principle of equality before the law. Justice is the highest value of the legal value category. Thus, the most fundamental value of justice is to provide (equality and fairness) equal conduct and fair opportunities to everyone (Devos, 2009). Social justice is the peak of the law goals, so practice should not prioritize individual justice and rule out social justice. The establishment of the sense of justice is fulfilled through two efforts, formal and substantial. The justice relating to the legislation is the justice formally, while how the regulatory system formulates justice and how the Judge decide cases are the justice substantially (Lailam, 2017).

b. The Value of Legal Benefit Principle

The legal constitution and the law construct to achieve justice and benefit the community's interests. Therefore, the formation of regulations should consider people's interests. Justice value is analyzed using the utility value, as described based on Article 28H paragraph (2) of the 1945 Constitution "Everyone deserves convenience and specialty conduct to obtain equal opportunities and benefits to achieve equality and justice. Another element for assessing the legal benefit principle is to evaluate whether the rule violates the value of human nature or not. The discussion above concludes that the legal benefit principle is an effort to achieve the law's goals and realize what is beneficial for the people and meet the value of justice (Lailam, 2017).

c. The Value of Legal Certainty Principle

The legislation is a fundamental instrument in legal action and law enforcement, and even one of the main objectives is to create legal certainty. The requirement of legal certainty in the legislation are: a) the formulation clearly; b) consistent in its formulation both internally and externally (semantic relationship, fulness of composition and language); c) the use of appropriate and easy-to-understand language, d) the clearness of legal language: meaning, structure, and terms used to ensure legal certainty. To analyze the enforcement of the Regional Regulation of Yogyakarta City Number 1 of 2011 concerning Local Tax, the legal system theory developed by Lawrence Friedman is used. A regulation is in ideal condition if it meets the components of the legal system. Therefore, the enactment of the Regional



Regulation of Yogyakarta City Number 1 of 2011 concerning Local Tax is reviewed based on three law components, namely: the structure of the law, the substance of the law, and the culture of the law (Darnela, 2015).

1. Substance of Law

The law substance is the rules and norms drawn up by parties/people in the legal system. The law substance is interpreted by the legal material itself that are several requirements for the law to be implemented effectively by the community (Supeno, 2017). A legal norm becomes valid if created by an authorized institution and based on a higher norm level (Lailam, 2017). The fundamental criteria of a regulatory substance consist of: a) Philosophical Foundation; b) Sociological Foundation; and c) Juridical Foundation. Therefore, the substance analysis in the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax uses the three foundations above. Legal norms contained in the establishment of the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax which attributed to Lawrence Friedman's opinion that the substance of the law has several indicators such as the following:

- a) The law substance is used to review whether the law can be implemented and whether it contains elements of justice and non-discriminatory elements and ensures the protection of rights and obligations in a balanced manner.

Based on the philosophical basis of the enactment of regulation in Indonesia, the Five Principles value as the basic norm / *rechtsidee* becomes a place of depending on the legal norms under the Five Principles and implies that the legal norm under it should not be contrary to the value of Five Principles. In the control of people's behaviour to comply with the rules, according to the Head of Law Department of Yogyakarta City, Rahmat Setiabudi, the procedure of administrative sanctions is considered easier than criminal sanctions by the taxpayer because taxpayers only need to take care of the cottage permit and then report how underpaid or how long the delay to then pay the administrative sanction. Based on the discussion above, the criminal sanctions are not implemented in enforcing the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax, reviewed on a philosophical basis, the absence of imposing criminal sanctions causes the limitation of the justice principle fulfilment.

- b) The law substance is used to review whether the substance of the regulation is in the people's interest.

Based on the sociological perspective of establishing regulation in Indonesia, the testing of regulatory content uses aspects of textual and societal approaches or sociological approaches to law and social behaviour of the community (Cotterrell, 1983). Based on the opinion of Rahmat Setiabudi to the case of taxpayers who intentionally prepare boarding houses business to have rooms above 10 (ten) but provide air conditioning facilities below 9 (nine) rooms, it does not meet the minimum threshold to classify as an



exclusive boarding house. However, people do not understand the tax function and tend not to meet their tax obligations. Logically/pros logic, the legal process must run according to principles and logic that the government could not act on such cases as a violation of the law, especially for the investigation process that needs to know the *mens rea* or the intention of the subject of law for action. Based on the explanation of Rahmat Setiabudi mentioned above, the society is less accepting of the imposition of boarding house tax regulated by the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax. It can be concluded that there is a substantial conflict of interest between the sociological aspect and the legal benefit aspect of this rule.

- c) The substance of the law is used to explain whether the existing rules are constitutionally justified.

According to Sudikno, the legal norms are created as a social control tool to maintain the order of security, tranquillity, and social engineering to renew behaviour and build human civilization. The legal material in the legal norms is different from other norms. The substance of legal material can be adhered to by coercive criminal sanctions imposed by state officials (Gibbs et al., 1968). According to Rahmat Setiabudi, the legal drafting of regional regulations is conducted by the Mayor of Yogyakarta City as the government (executive) and the House of Regional Representatives (legislative). Consistently, establishing the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax has been futuristic by considering the criteria of exclusive boarding houses with Air Conditioner (AC) facilities and rented above 10 (ten) rooms. However, these conditions are now less relevant because air conditioning is commonly used. The solution to separate the classification of boarding house tax with hotel tax criteria may be possible; it causes inefficiencies in existing regulations. It can be concluded that the legal norm of the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax is considered to no longer contain a blanket norm or black/hazy norm because there is certainty about the minimum limit of the number of air conditioning facilities and rooms to be subject to boarding house tax.

2. Legal Structure

The structure of the law consists of the form of a legal system. Understanding the legal structure is an effort to make the law effectively enacted so that the concrete form of the legal structure is the existence of legal institutions that draft and conduct existing laws. Lawrence Friedman (Supeno, 2017) categorized the legal structure into several indicators, such as the following:

- a) The law structure requires law enforcement to have a good education,
- b) The law structure requires that law enforcement be responsible for its profession,



- c) The law structure requires that law enforcement be capable of solving legal cases and have a sense of public problems.

In this study, aspects of legal structure are reviewed based on factors of law enforcement officers and the quality of tax service authorities (Mahi, 2015). The first explanation is about the factors of law enforcement officers. Based on Regional Regulation No. 1 of 2011 on Local Tax and The Mayor Regulation of Yogyakarta No. 108 of 2016 concerning Procedures for Regional Tax Inspection, officials who are authorized as tax authorities to carry out the process of tax collection, tax inspection, and tax collection in the city of Yogyakarta are the Regional Board of Financial and Assets Management of Yogyakarta City. The legal structure component for boarding house tax regulation in Yogyakarta is the law enforcement officer consisting of the Regional Board of Financial and Assets Management as the main party and assisted by the Public Order Enforcers Yogyakarta City, 14 Sub-District in Yogyakarta city as well as the Investment and Licensing Office of Yogyakarta City. Tax violations sanction should be imposed by the local tax regulation without exception whether there is the absence of bailiffs or not, namely by *gijzeling* (standoff) and tax sanctions to create legal certainty (Fontian, 2015). The legal structure of the legal system also correlates with the quality of the tax service authority factor. Based on the interview, the tax authorities in Yogyakarta City provide some facilities in the framework of local tax collection are 1) socialization conducted by the tax authority in collaboration with the sub-district and the Public Order Enforcers of Yogyakarta City, 2) the online tax system through e-SPTPD so that taxpayers can fulfil the obligations of tax reporting and tax payment online, and 3,) the presence of Optical Character Recognition (OCR) in the taxpayer payment system.

Based on the perspective of the legal structure discussed above, the implementation of the enforcement of boarding house tax regulations in Yogyakarta City for factor service quality of tax authorities and law enforcement officers is considered to have adjusted the public needs (as a legal benefit) and legal certainty, while does not provide justice to the community.

3. Legal Culture

According to Roger Cotterrell, legal culture is the diversity of ideas, values, and attitudes about the law in various communities and its position in the social order (Rahman & Tomayahu, 2020). The concrete condition of legal culture is the public enthusiasm to entrust the dispute settlement to the courts. Legal institutions can be judged to have the same functions but practically can perform different roles in society (Surbakti & Hum, 2006). Based on this explanation, Supeno, quoting Lawrence Friedman (Supeno, 2017), categorized legal culture principles into several indicators as follows:

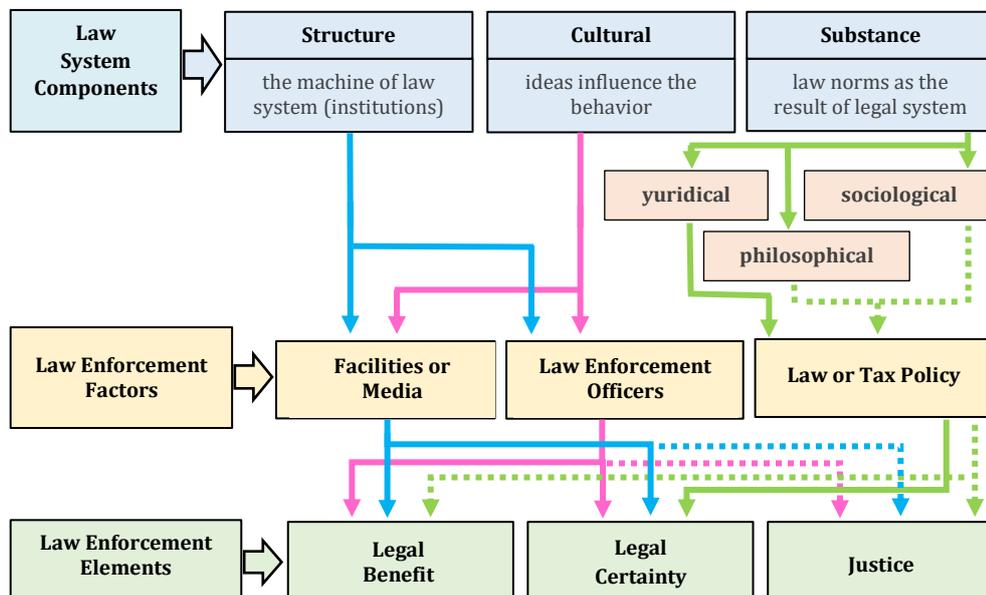
- a) The community assesses legal culture according to legal awareness (religion and habits) that develop in society.
- b) Legal culture requires socialization to convey information and increase public knowledge about legal content (Ulfadani & Ali, 2019).
- c) The community needs legal culture to solve community problems and get a positive response from the community.

The existing legal culture of the boarding house owner is if the tax authorities perceived the service directly to the taxpayers. Related to these conditions and to increase tax service quality, tax authorities in Yogyakarta provide various facilities that make it easier for taxpayers to meet their tax obligations. Tax authorities provide socialization on taxation, tax call centre media, and online tax access (e-SPTPD). Tax authorities have different functions for each existing tax object. For example, tax authorities only provide Optical Character Recognition (OCR) facilities for certain tax objects. In addition to considering the cost-to-benefit principle as described earlier, it also creates legal fairness in tax collection. Based on the perspective of legal culture as discussed above, it can be concluded that the implementation of the enforcement of boarding house tax regulations in Yogyakarta City for factor service quality of tax authorities, law enforcement officials, and tax sanctions have adjusted the public needs (as a legal benefit) and legal certainty while does not provide justice to the community.

4. Research Result Framework

The following is a chart of the implementation of boarding house tax regulations in Yogyakarta City based on the relationship between law enforcement factors, legal system components, and perspectives on the fundamental values of legislation:

Figure 2. The Relationship of Law Enforcement Factors





The Obstacles of the Enforcement of the Regional Regulation of Yogyakarta City Number 1 of 2011 to Increasing Local Revenue through Boarding House Tax

Internal Law Enforcement Factors

a. Legal Factors

1. Lack of legal benefits element due to the hotel regulation restrictions on the number of hotels in the city of Yogyakarta based on Yogyakarta Mayor Regulation No. 111 of 2019. The regulation stated that the building permit service is temporarily suspended for building new hotel buildings from January 1 to December 31, 2020. The rule could result in the misappropriation of boarding house permits. Business owners who will apply for a hotel permit switch to applying for a boarding house permit with a daily rental system. This risk opportunity is utilized by boarding house owners to submit income tax monthly like hotel tax rules and does not submit income tax daily.
2. Lack of legal benefits and legal justice due to the boarding house must have a minimum of 10 (ten) rooms and air conditioning facilities. The criteria for boarding houses must have a minimum of 10 (ten) rooms with air conditioning facilities, causing the potential condition of tax avoidance. Taxpayers can prepare to construct boarding houses by building any number of rooms, but taxpayers deliberately provide air conditioning facilities for boarding house rooms for under 10 (ten) rooms. Tax authorities are unlikely to collect taxes from high-income taxpayers, but the *mens rea* is not proven to be cheating by eliminating air conditioning facilities for boarding house businesses. The taxpayers who have boarding houses with more than ten rooms and air conditioning under ten can have a higher income than taxpayers who have boarding houses with rooms and air conditioning of more than ten rooms. However, taxpayers with boarding houses with more than 10 (ten) rooms with air conditioning under 10 have no obligation to pay taxes. Therefore, Yogyakarta has the potential local revenue received from approximately 700 boarding houses, but not all of them become the object of local taxes. It can be concluded that the criteria for the number of rooms and boarding house facilities indirectly cause the potential tax revenue for boarding houses decreases and lack of legal justice.
3. Lack of legal fairness due to the low level of the imposition of sanctions against violations of boarding house tax. Based on the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax, the enforcement of the boarding house tax process is based on the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax consists of the administrative process and criminal process. Board of Financial and Assets Management Yogyakarta has never charged for criminal boarding house tax sanctions because taxpayers have fulfilled their tax obligations with a Reprimand Letter. The implementation of tax sanctions is limited to the imposition of administrative sanctions. The boarding house tax inspection and collection have never been



subjected to the Local Tax Underpayment Assessment Letter (SKPDKB), the Additional Local Tax Underpayment Assessment Letter (SKPDKBT), and the Nil Tax Assessment Letter (SKPDN). This is an indication of the lack of assertive tax authorities in imposing administrative sanctions. As a result, administrative sanctions already stated in the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax do not cause fear and deterrence and can potentially cause low levels of taxpayer compliance.

b. Law Enforcement Officer Factor

1. The lack of coordination between institutions due to authorized institutions granting permits, tax collection, and law enforcement are different institutions. Sub-District granted the cottage permit, the Investment and Licensing Office of Yogyakarta City granted building permits, The Regional Board of Financial and Assets Management of Yogyakarta City conducted tax collection, and the Public Order Enforcers Yogyakarta City and Civil Servant Officials conducted law enforcement. Lack of coordination and an un-integrated data system caused the boarding house licensing data from the Investment and Licensing Office of Yogyakarta City cannot be directly received by The Regional Board of Financial and Assets Management of Yogyakarta City. Tax arrears data are also not directly known by the Public Order Enforcers Yogyakarta City and Civil Servant Officials.
2. A limited number of tax authority personnel in the Regional Board of Financial and Assets Management of Yogyakarta City, the law enforcement officers in the Public Order Enforcers Yogyakarta City is disproportionate with the number of tax objects and duties that are carried out against violations of boarding house tax becomes hampered.
3. Yogyakarta City Government does not yet have a tax bailiff. The absence of bailiffs becomes a significant obstacle to enforcing tax regulations in Yogyakarta City. The bailiff can only do some processes related to billing, foreclosure, and tax auction.

c. Tax Facilities Factor

1. Lack of justice due to OCR facilities available has not been evenly distributed. OCR facilities require high investment, but these facilities are only available for some high-income tax objects only.
2. There are no maximum tax collection efforts due to no warning of payment due and online reprimand letter if the taxpayers are paying the tax late.

External Factors of Law Enforcement

Taxpayer Factors

- a. Taxpayers are not in the city area of Yogyakarta, causing calls to non-compliance taxpayers to be impeded.
- b. Lack of understanding of taxation by taxpayers (boarding house tenants) and tax subjects (boarding house tenants). In implementing boarding house tax, taxpayers



do not understand the imposition of administrative sanctions for boarding house objects.

Conclusion

The Yogyakarta City Government's efforts to enforce the rules of boarding house tax to increase local revenue are based on Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax. According to Soejono Soekanto, this research concluding based on three law enforcement factors such explained before. First, the tax authorities and law enforcement officers conduct the data collection of tax objects, provide local tax socialization, provide the online tax system through e-SPTPD for tax reporting and tax payment online, monitor local tax payments, and provide Optical Character Recognition (OCR) in payment system, issue the Reprimand Letter, and tax examination as the facilities factor of law enforcement. Second, the enforcement of boarding house tax rules as the law enforcement officer factor is conducted by the Sub-District, the Investment and Licensing Office of Yogyakarta City, the Regional Board of Financial and Assets Management of Yogyakarta City, the Public Order Enforcers Yogyakarta City, and Civil Servant Officials. Third, the application of boarding house tax sanctions in the city of Yogyakarta as the legal factor is the administrative sanction in the form of a Letter of Reprimand under the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax. So far, there has never been a criminal sanction in Yogyakarta because its application is not as easy as the administration sanctions. The conclusion is that the enforcement of boarding house rules has not been implemented optimally because the Yogyakarta City Government has not conducted tax collection under the Regional Regulation of Yogyakarta City Number 1 of 2011 on Local Tax.

The obstacles included as internal factors are the lack of legal justice due to the minimum criteria of boarding houses rooms and air conditioning facilities, the lack of legal justice and firmness in conducting the tax sanctions, and the restrictions on the number of hotels in Yogyakarta. The internal obstacles of law enforcement officers are the limited number of tax authority personnel, the absence of a tax bailiff, and the lack of coordination between institutions. The internal obstacle of facilities factor is the absence of facilities due to online payments and reprimands. The external factor obstacles are that taxpayers are not in the Yogyakarta City area, and taxpayers do not understand the imposition of administrative sanctions for boarding house objects.

The recommendations of this study are explained relating the facilities, law enforcement officers, and legal factors. Based on the facilities factor, the Yogyakarta City Government should increase tax service facilities distribution. Tax collection facilities must be accessed online to create accessibility, accountability, and efficiency. Based on law enforcement, Yogyakarta City Government should increase supervision over boarding house licensing, rental system, number of rooms, air conditioning facilities, and compliance to pay taxes. Sub-District, the Investment and Licensing Office of Yogyakarta City, the Regional Board of Financial and Assets Management of



Yogyakarta City, the Public Order Enforcers Yogyakarta City, and Civil Servant Officials to strengthen coordination between agencies and conduct joint evaluations to enforce boarding house tax rules. Based on the legal factor, Yogyakarta City Government shall impose criminal and administrative sanctions against non-compliance boarding house taxpayers. Yogyakarta City Government to develop regulations that specifically discuss boarding house tax with the relevant conditions of income, facilities, and room number, also adjusted to tax sanctions theory.

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Declarations

Author contribution : Author 1: initiated the research ideas, literature review, instrument construction, data collection, data presentation and analysis, and draft writing; Author 2: revised the research ideas, literature review, data presentation and analysis, the final draft, and corresponding with the journal. Author 3: reading and providing constructive feedback to the final draft.

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