

LEGAL ISSUES IN THE IMPLEMENTATION OF EXCISE TARIFFS ON CIGARETTE COMPANIES IN MADURA

Warit Aziz

Faculty of Law Universitas Airlangga, Indonesia
warit.aziz-2023@fh.unair.ac.id

Abstract

Cigarette excise rates are relatively expensive and not affordable by consumers (people) with middle to lower income, resulting in the large circulation of illegal cigarettes without excise. The legal problems that need to be studied are the regulation of illicit cigarettes without excise in Madura, the implementation of these arrangements for the people of Madura, which has led to the proliferation of illegal cigarettes, and the effectiveness of policies against illegal cigarettes without excise. This research uses empirical legal research with socio-legal and anthropological approaches. The research and study results show that, First, unaffordable excise tariffs cause the rampant circulation of illegal cigarettes without excise, so based on the theory of the "Law of Demand", consumers demand low prices without excise. Secondly, stricter supervision is needed regarding the circulation of illegal cigarettes in Sumenep District through improving the performance of the Madura regional customs and excise office.

Keywords: Legal issues, excise tariffs, cigarette companies, Madura.

Introduction

The nature of the rule of law is a state that is subject to the law, a state that is *governed not by men but by law*.¹ Law Number 39 of 2007, Concerning the Amendment to Law Number 11 of 1995 Concerning Excise, aims to harmonize development by placing the obligation to pay excise as a form of state obligation and is a form of community participation in financing development so that the obligation

¹ Haposan Siallagan, "Penerapan Prinsip Negara Hukum Di Indonesia," *Sosiohumaniora* 18, no. 2 (2016): 131-37, <https://doi.org/10.24198/sosiohumaniora.v18i2.9947>.

to pay excise is a form of state and community obligation to participate as a means of social reform.²

The definition of excise in Article 1 number 1 of Law Number 39 Year 2007 Concerning the Amendment to Law Number 11 Year 1995 Concerning Excise states "*Excise is a state levy imposed on certain goods with the properties or characteristics stipulated in this law*". Excise is a form of State levies imposed on certain goods with specific characteristics for state revenue to create welfare, justice, and balance for the community.³ Certain goods that have specific characteristics are mentioned in Article 2 of Law Number 39 Year 2007, namely that their consumption needs to be controlled, their circulation needs to be monitored, their use can hurt society or the environment, and their use needs the imposition of state levies for the sake of justice and balance. Goods that have these properties and characteristics are declared as excisable goods.⁴

The classification of certain goods that are excisable is regulated in Article 4 paragraph (1) of Law Number 11 Year 1995 Concerning Excise as follows: a) Ethyl Alcohol or Ethanol; b) Beverages Containing Ethyl Alcohol (MMEA); and c) Tobacco Products, which include: cigarettes, cigars, leaf cigarettes, sliced tobacco, and other tobacco management products.⁵

Classification of the inclusion of tobacco products in excisable goods that are in great demand by the Indonesian people in the form of cigarettes. The definition of cigarettes, according to Article 1 Number 3 of Government Regulation of the

² Eddy Mayor Putra Sitepu, "Penerapan Earmarking Cukai Hasil Tembakau Di Indonesia: Regulasi Dan Konsep Ideal," *Kajian Ekonomi Dan Keuangan* 20, no. 3 (December 1, 2016): 241–59, <https://doi.org/10.31685/kek.v20i3.200>.

³ Mukti Fajar ND, "Evaluasi Kebijakan Tarif Cukai Rokok Elektrik Guna Mendorong Persaingan Usaha Yang Sehat," *Jurnal Penegakan Hukum Indonesia* 3, no. 2 (October 19, 2022): 230–49, <https://doi.org/10.51749/jphi.v3i2.78>.

⁴ Laura Ardiani Rohmah Cahyani, "Analisis Dampak Lingkungan Dari Peningkatan Jumlah Pembuangan Sembarangan Putung Rokok Di Gunung," *CHEMVIRO: Jurnal Kimia Dan Ilmu Lingkungan* 2, no. 1 (2024): 205–21, <https://doi.org/https://doi.org/10.56071/chemviro.v2i1.761>.

⁵ Joshua Newman and Martha Widdi Nurfaiza, "Policy Design, Non-Design, and Anti-Design: The Regulation of E-Cigarettes in Indonesia," *Policy Studies* 43, no. 2 (March 4, 2022): 226–43, <https://doi.org/10.1080/01442872.2019.1708887>.

Republic of Indonesia Number 109 of 2012, concerning the Safety of Materials Containing Addictive Substances in the Form of Tobacco Products for Health, is "Cigarette is a tobacco product that is intended to be burned and smoked and/or inhaled smoke, including clove cigarettes, white cigarettes, cigars or other forms produced from the plants *nicotiana tabacum*, *nicotiana rustica*, and other species or their synthetics whose smoke contains nicotine and tar, with or without additives".⁶

A legal sign of the circulation of cigarettes in the community through an excise band or the affixing of excise on the packaging as a sign of repayment so that it can be offered, delivered, sold, or made available for sale after being packaged for retail sale and attached to an excise band or affixed with an excise repayment mark as stipulated in Article 29 paragraph (1) of Law Number 11 of 1995 concerning Excise. Cigarettes are excisable goods from tobacco products where proof of excise payment is attached to an excise band to have the validity to be offered, delivered, sold, or made available for sale to the final consumer. Smokers in Indonesia over the past ten years have a very significant number, namely the number of adult smokers by 8.8 million people, from 60.3 million in 2011 to 69.1 million smokers in 2021. The considerable growth in the number of smokers in Indonesia proves the existence of cigarettes that are in demand from various economic circles.⁷

Cigarettes are excisable goods with excise revenue contributing to the state budget revenue and expenditure (APBN) with a significant income. This is evidenced by the excise revenue included in the APBN from 2019, totalling IDR. 172,421,900,000, - in 2020 totaling IDR. 176,309,310,000, and in 2021 totaling IDR.182,200,000,000.⁸

⁶ Newman and Nurfaiza, 237.

⁷ Mohtar Rasyid and Abdillah Ahsan, "Revenue and Cost Analysis for Unhealthy Commodity (Tobacco Products): Comparative Study among Indonesia and Some ASEAN Countries," *Unnes Journal of Public Health* 9, no. 1 (January 31, 2020): 1-10, <https://doi.org/10.15294/ujph.v9i1.30551>.

⁸ Bagus Wahyu Prasetyo and Vid Adrison, "Cigarette Rrices in a Complex Cigarette Tax System: Empirical Evidence from Indonesia," *Tobacco Control* 29, no. 6 (June 28, 2019): tobaccocontrol-2018-054872, <https://doi.org/10.1136/tobaccocontrol-2018-054872>.

The introductory rate of excise is regulated in Article 5 Paragraph (1) letter a of Law Number 39 of 2007 and regulated in Regulation of the Minister of Finance of the Republic of Indonesia Number 109/PMK.010/2022, which governs the Tobacco Products Excise Band Tariff. The minister of finance regulates the provision of excise prices for excise rates on cigarette excise based on the type and class. With the regulation of excise tariffs that dominantly influence the cost of cigarettes, there is a large circulation of illegal cigarettes with the consideration that consumers choose a relatively economical price. This is evidenced by the circulation of unlawful cigarettes at the national level in 2019, totalling 361.26 million illegal cigarettes, and in 2020, totalling 384.51 million illicit cigarettes. The large circulation of illegal cigarettes without an excise band needs to be investigated for problems that cause a large number of unlawful cigarettes without an excise band.⁹

The rampant existence of illegal cigarettes without excise tax bands with data on the circulation of illicit cigarettes nationally in 2019, totalling 361.26 million illegal cigarettes, and in 2020, totalling 384.51 million illegal cigarettes,¹⁰ requires a benchmark from an economic perspective looking at prices and consumer demand. According to economics, demand is the various types and quantities of goods and services that buyers demand at different possible prices within a certain period in the market. Economic analysis considers that the demand for a good is mainly influenced by its price level. Therefore, in demand theory, the relationship between the amount of demand for a good and the price of that good is primarily analyzed. *Law of Demand* is an economic theory where the sale of goods from producers is adjusted based on consumer demand.

This theory is the law of consumer demand regarding the quality of goods offered and traded. *Law Of Demand* theory can be one way of knowing and

⁹ Mohtar Rasyid, "Impact of the Free Trade Zone on Cigarette Consumption: An Examination of Indonesian Households," *GATR Journal of Business and Economics Review* 2, no. 4 (2017): 10–17, [https://doi.org/10.35609/jber.2017.2.4\(2\)](https://doi.org/10.35609/jber.2017.2.4(2)).

¹⁰ Abdul Hamid and Samuel Samuel, "Customs and Excise Officers Authority on Illegal Cigarette in Indonesia," *Kanun Jurnal Ilmu Hukum* 24, no. 3 (December 1, 2022): 326–38, <https://doi.org/10.24815/kanun.v24i3.28774>.

examining the problem of illegal cigarettes without excise bands that are widely circulated among the public both in Madura and the national scope, and this economic theory can see the effectiveness of applicable laws from a sociological point of view in the application of regulations from excise tariffs.¹¹

The amount of circulation of illegal cigarettes without excise tax in Madura island that Madura Customs handled from October 2022 to August 2023 amounted to 26.8 million cigarettes with a state loss of 33 billion rupiah.¹² The circulation of illegal cigarettes without excise stamps on the island of Madura is very significant and relatively high.¹³ An alternative solution to the problem of illegal cigarettes without excise stamps is required within the national scope, including the island of Madura.

Nur Ihsania and Ratih Kumala conducted previous research entitled "Supervision and Enforcement of Illegal Cigarettes at the Bekasi Customs Type A Customs Supervision and Service Office" in 2022 public administration journal Vol 2, No.4, July 2022, with the focus of his research on the supervision and prosecution of illegal cigarettes at the Bekasi Type A Customs Customs Supervision and Service Office with the results of his study stating the obstacles caused in its implementation from internal factors of lack of knowledge and soft skills in monitoring illegal cigarettes and external aspects of society there is no rejection of the behaviour of illegal cigarette distribution in Bekasi.¹⁴

¹¹ Fuad Hasan and Dwidjono Hadi Darwanto, "Prospek Dan Tantangan Usahatani Tembakau Madura," *SEPA: Jurnal Sosial Ekonomi Pertanian Dan Agribisnis* 10, no. 1 (2017): 63, <https://doi.org/10.20961/sepa.v10i1.14108>.

¹² Insana Meliya Dwi Cipta Aprila Sari, "Dana Bagi Hasil (Dbh) Cukai Hasil Tembakau Ditinjau Dari Cukai Rokok, Kesehatan Dan Industri Rokok.," *Yuridika* 25, no. 3 (2010): 433–51, <https://doi.org/10.20473/ydk.v25i3.254>.

¹³ Diana Malemita Ginting, "Optimization of Supervision of Cigarettes in the Framework of Mitigation of Illegal Cigarette Circulation," *INNOVATIVE: Journal Of Social Science Research* 3, no. 6 (2023): 9942–56, <https://doi.org/https://doi.org/10.31004/innovative.v3i6.7727>.

¹⁴ Nur Ihsania and Ratih Kumala, "Pengawasan Dan Penindakan Rokok Ilegal Pada Kantor Pengawasan Dan Pelayanan Bea Cukia Tipe Madya Pabean A Bekasi," *Jurnal Ilmu Administrasi Publik* 2, no. 4 (2022): 418–27, <https://doi.org/https://doi.org/10.31334/jiap.v2i4.2947>.

In contrast, this research looks at the factors that cause illegal cigarettes with the *law of demand* theory and analyzes the aspects related to illegal cigarettes with Law Number 39 of 2007 concerning Excise. The rampant circulation of illegal cigarettes without excise bands, both within the national scope and the scope of the island of Madura, requires an alternative solution to overcome it by updating the regulations or rules governing the excise band tariff. The renewal of the excise band tariff again refers to the regulations of Law Number 39 of 2007 article 5, paragraph (1) letter a, and the regulation of the minister of finance must be in line with the calculation of rates based on those stipulated in the excise law.

Method

This research method uses a type of empirical legal research known as Socio-Legal Research (This empirical legal research examines the law, which is conceptualized as actual behaviour, as a form of unwritten symptoms.¹⁵ The socio-legal analysis examines the operation of law in society. The approach used in this research is a socio-legal approach, which analyzes how reactions and interactions occur when the norms work in society.¹⁶ Legal facts can be obtained from this legal approach regarding excise band tariffs on cigarette companies in Madura. This research is located on Madura Island, taking data samples in the Sumenep Regency with actual consideration and allowance of the data obtained. It is one of the areas where the circulation of illegal cigarettes is prohibited without excise tax.

The data sources used in this study are primary data and secondary data. Primary data comes from parties directly related to the object of research. Primary data is intended through data collection of parties involved in this study, including consumers, former entrepreneurs and chairman of the cigarette association of

¹⁵ Pradeep M.D., "Legal Research- Descriptive Analysis on Doctrinal Methodology," *International Journal of Management, Technology, and Social Sciences* 4, no. 2 (2019): 95–103, <https://doi.org/10.47992/ijmts.2581.6012.0075>.

¹⁶ Victor Imanuel W. Nalle, "The Relevance of Socio-Legal Studies in Legal Science," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 1 (February 15, 2015): 179, <https://doi.org/10.22146/jmh.15905>.

Sumenep period 2009-2014, and the Head of Office and Employees of the Office of Customs and Excise Supervision and Services Type Madya Customs C Madura using interviews, observations, and reports processed by researchers.

Secondary data by reviewing related documents in books, journals, scientific writings, and the hierarchy of laws and regulations related to this research horizontally and vertically. This research uses data collection and processing techniques in 3 (three) forms, including observation, interviews, and literature studies. The data analysis method of this research is the qualitative analysis of data quality, meaning that researchers analyze only quality data or legal materials. Therefore, what is essential in qualitative analysis is not only to reveal the truth but also to understand the truth.

Discussion

Customs Tariff Setting

The regulation of illegal cigarettes without excise stamps is regulated in Law Number 39 of 2007 Concerning the Amendment to Law Number 11 of 1995 Concerning Excise, which covers the existence of excise, excisable goods, excise rates, and sanctions for excise violators and other excise activities. Law No. 11/1995 on Excise is Indonesia's first regulation regulating excise. Law No. 11/1995 defines excise as a state levy on excisable goods. Excisable goods are mentioned in Article 4, paragraph (1) of Law Number 11 Year 1995 on Excise.¹⁷

Ethyl alcohol, or ethanol, means liquid, clear and colourless organic compounds with the chemical formula C₂H₅OH, obtained by division and/or distillation or chemical synthesis. Ethyl alcohol, suggested by "beverages containing ethyl alcohol", are all liquid goods commonly called beverages containing ethyl alcohol produced using division, distillation, or other means, including beer, shandy, wine, gin, whisky, and the like. What is meant by "concentrate containing ethyl

¹⁷ Richard D Hurt et al., "Roadmap to A Tobacco Epidemic: Transnational Tobacco Companies Invade Indonesia," *Tobacco Control* 21, no. 3 (May 2012): 306–12, <https://doi.org/10.1136/tc.2010.036814>.

alcohol" is a material used as raw material or auxiliary material in manufacturing beverages containing ethyl alcohol.¹⁸ Tobacco products excisable goods of the type of tobacco include several types, including cigarettes, cigars, leaf cigarettes, sliced tobacco, and other tobacco processing products without any distinction to meet the category of excisable goods using or not substitutes or auxiliary materials in their manufacture. The meaning of "cigarettes" is tobacco products made from knitted tobacco wrapped in paper by rolling for use, regardless of the substitutes or auxiliary materials used in its manufacture. Cigarettes consist of clove cigarettes, white cigarettes, and incense rhubarb cigarettes. Kretek cigarettes are mixed with cloves, or parts thereof, either genuine or imitation, regardless of the amount.¹⁹

The enactment of Law Number 39 in the Year 2007 Concerning the Amendment to Law Number 11 in 1995 Concerning Excise is based on the fulfilment of legal certainty from the excise regulation in the previous law. A significant change is in the imposition of excise tariffs stipulated in Article 5, paragraph (1) of Law Number 39 Year 2007. Excise tariffs are imposed differently based on circulation in Indonesia and Imports. The regulation of excise tariffs as intended is further regulated regarding the imposition of excise tariffs in the rules of the authorized minister by paragraph (5) of this law.²⁰

Regulations regarding illegal cigarettes without excise tax bands as in the provisions of Article 29 paragraph (1) of Law Number 39 of 2007 Concerning the Amendment to Law Number 11 of 1995 Concerning Excise, are subject to criminal sanctions and/or fines. And as stipulated in the provisions of Article 54 of Law Number 39 of 2007, namely:

¹⁸ Anna Woźniak et al., "Selected Biochemical Parameters of Oxidative Stress as a Result of Exposure to Tobacco Smoke in Animals Addicted to Ethyl Alcohol," *Przegląd Lekarski* 69, no. 10 (2012): 824–32, <http://www.ncbi.nlm.nih.gov/pubmed/23421041>.

¹⁹ Irwin Schmeltz, Kaolin G. Chiong, and Dietrich Hoffmann, "Formation and Determination of Ethyl Carbamate in Tobacco and Tobacco Smoke," *Journal of Analytical Toxicology* 2, no. 6 (November 1, 1978): 265–68, <https://doi.org/10.1093/jat/2.6.265>.

²⁰ Andrew Rosser, "Contesting Tobacco-Control Policy in Indonesia," *Critical Asian Studies* 47, no. 1 (January 2, 2015): 69–93, <https://doi.org/10.1080/14672715.2015.997083>.

"Any individual or company who offers, delivers, sells, or makes available for sale excisable goods that are not packaged for retail sale by the piece or does not affix the excise band on the packaging or does not affix other types of payment marks on the excisable goods is subject to a criminal sanction of imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years imprisonment and/or subject to a criminal sanction of a fine of at least 2 (two) times the value of the excise tax violated and a maximum of 10 (ten) times the value of the excise tax that must be paid."

Regulations concerning illegal cigarettes without excise tax are specifically regulated in the provisions of Article 54 of Law Number 39 of 2007. Problems that cause the large circulation of illicit cigarettes without excise tax in Madura are caused by the community's economic situation, which is the main factor in the circulation of illegal cigarettes without excise tax.²¹

The regulation of excise tariffs on excisable goods is further regulated in the Minister of Finance Regulation Based on Regulation of the Minister of Finance of the Republic of Indonesia Number 109/PMK.010/2022 Regarding Amendments to Regulation of the Minister of Finance of the Republic of Indonesia Number 192 / PMK.010/2021 Regarding Excise Tariffs on Tobacco Products in the Form of Cigarettes, Cigars, Leaf or Klobot Cigarettes, and Sliced Tobacco *juncto* Regulation of the Minister of Finance of the Republic of Indonesia Number 191/PMK.010/2022 Regarding the Second Amendment to Regulation of the Minister of Finance of the Republic of Indonesia Number 192/Pmk.010/2021 Regarding Excise Tariffs on Tobacco Products in the Form of Cigarettes, Cigars, Leaf or Klobot Cigarettes, and Sliced Tobacco.

The implementation of the excise tariff regulation as a form of legalization of cigarettes with an excise payment mark is clarified in Article 2 of the Regulation of the Directorate General of Customs and Excise No.67 / PMK / 04/2018 concerning

²¹ Abdul Aziz Malik Jakfar, Darsono Wisadirana, and Moh. Muzakki, "Strategi Bertahan Hidup Industri Rokok Kecil Terhadap Kenaikan Cukai (Studi Kasus Rokok Ilegal Di Kabupaten Probolinggo)," *Brawijaya Journal of Social Science* 3, no. 01 (December 2023): 37-52, <https://doi.org/10.21776/ub.bjss.2023.003.01.3>.

Trade in Excisable Goods whose excise is paid by laying excise stamps or affixing other excise payment marks has the following excise tariffs:

Table 1: Cigarette Excise Band Rates

No.	Tobacco products cigarette factory entrepreneur group		Retail Price Limit per Bar	Excise rate per bar
	Type	Goals		
1.	Cigarettes Kretek Machine	I	Lowest IDR 2,055.00	IDR 1,101.00
		II	Lowest IDR 1,255.00	Rp. 669.00
2.	White Cigarette Machine	I	Lowest IDR 2,165.00	IDR 1,193.00
		II	Lowest IDR 1,295.00	Rp. 710.00
3.	Hand-rolled clove cigarettes or White Hand Cigarettes	I	More than IDR 1,635.00 Lowest Rp. 1,135.00 to Rp. 1,635.00	Rp. 440.00 Rp.345.00
		II	The lowest is IDR 600.00	Rp. 205.00
		III	Lowest IDR 505.00	IDR 115.00

Source: Minister of Finance Regulation Number 191/PMK.010/2022.

Cigarette companies in Madura have a dilemma with the excise tariffs that increase every year; on the one hand, they fulfilling their obligations as cigarette companies by paying off the excise and on the other hand, consumers are less interested in using excise, which, of course, increases the price of cigarettes than without excise tax. The increase in excise tariffs every year is a burden for medium-sized cigarette companies starting as cigarette companies. The increase in excise tax rates must be considered with the economic situation of consumers in medium-sized cigarette companies or companies that are not a group I which have consumers or target markets of the middle to lower economy, including farm labourers, farmers, private employees, middle-class entrepreneurs, the elderly, and other consumers who have an income below 2 (two) million rupiah.²²

²² Aprila Sari, "Dana Bagi Hasil (Dbh) Cukai Hasil Tembakau Ditinjau Dari Cukai Rokok, Kesehatan Dan Industri Rokok."

Regulations regarding illegal cigarettes without excise stamps are regulated in Law Number 11 of 1995 concerning Excise and Law Number 39 of 2007 and regulated in the Regulation of the Ministry of Finance of the Republic of Indonesia regulating the implementation of excise tariffs that should be fulfilled in cigarette packaging in 2022, namely Regulation of the Minister of Finance of the Republic of Indonesia Number 109/PMK.010/2022 concerning Amendments to Regulation of the Minister of Finance Number 192/PMK.010/2021 concerning Excise Tariffs on Tobacco Products in the Form of Cigarettes, Cigars, Leaf or Klobot Cigarettes, and Iris Tobacco. The form of sanctions for violators of cigarette regulations that do not use excise tax stamps as proof of excise tax payment in their packaging is declared illegal, as stipulated in Law Number 39 of 2007, in the form of criminal sanctions in the form of imprisonment and/or fines for every violator of the provisions of illegal cigarettes without excise tax stamps.²³

Legal Issues in the Determination of Excise Tax Rates

Cigarette companies in Madura amount to 150 and 70 have legal existence, and Sumenep Regency has 39 (thirty-nine) cigarette companies actively producing in 2022. 39 (thirty-nine) cigarette companies are registered as cigarette companies outside of the revocation of cigarette company licenses. These cigarette companies can apply for excise tapes to attach to their cigarette packaging as the legality of their cigarette products has paid state levies in the form of laying excise tapes.

Based on internal customs and excise regulations, the list of cigarette companies with several company names is not published to avoid data misuse except for the state's benefit. The types of cigarette companies in the Sumenep District, totalling 39 (thirty-nine) companies, are not disseminated to the general

²³ Rosser, "Contesting Tobacco-Control Policy in Indonesia."

public, only given to the perpetrators of excisable goods, which include companies, customs and excise officers, and several agencies with the provision of state needs.²⁴

In the Sumenep District, there is an association of middle-class cigarette companies united in the association GAPPEROSUM (Gabungan Perusahaan Rokok Sumenep: Association of Cigarette Companies Sumenep) established on October 19, 2009, registered in the registrar of the District Court Sumenep Number W14-U15/107-PA.PKP/HK-X-2009/PN.Smp is led by Mudianto, who is chairman and owner of MDS Cigarette Company.²⁵ Enforcement carried out by the Office of Customs and Excise Supervision and Services type Madya Customs C Madura Madura regarding the circulation of illegal cigarettes in Sumenep Regency in 2022 amounted to 1,801,743 (one million eight hundred one thousand seven hundred forty-three) cigarettes with a potential state loss of IDR. 1,275,389,420. (*one billion two hundred seventy-five million three hundred eighty-nine thousand four hundred and twenty rupiah*). The amount of illegal cigarette circulation completed by the Madura customs office is a matter that must be considered with a large state loss.

Enforcement of illegal cigarettes by the Madura Customs and Excise Supervision and Service Office type Madya Customs C using raids in public places such as terminals and places that indicate the presence of illegal cigarettes in Sumenep Regency. The arrest is only in the Sumenep District area, not from the origin of the illegal cigarettes being arrested; for example, there are illegal cigarettes from Sumenep but are subject to raids to arrest illegal cigarettes outside the Sumenep District area, including prosecution in the area of arrest of these illegal cigarettes. The determination of excise tariffs is a reason behind the circulation of unlawful cigarettes in Indonesia and the Sumenep District.

²⁴ Satriya Wibawa et al., "Sovereignty Above International Regime: Framework of Convention on Tobacco Control Agenda in Indonesia," *Cogent Social Sciences* 9, no. 1 (December 31, 2023): 2200663, <https://doi.org/10.1080/23311886.2023.2200663>.

²⁵ Muhadjir Darwin, "Perilaku Merokok Dan Pengalaman Regulasi Di Berbagai Negara," *Populasi* 18, no. 2 (2016): 201–15, <https://doi.org/10.22146/jp.12098>.

The regulation regarding the applicable excise tariff is regulated in Article 5 paragraph (1) of Law Number 39 Year 2007 on the Amendment to Law 11 Year 1995 on Excise. This regulation is quite old and needs to be updated as the legal principle of *Ubi Societas Ibi Ius*, which means that where there is a society, there is a law. The existence of this law is flexible to follow the development of society. It is not rigid with the purpose of law that creates order to minimize violations and chaos in society.²⁶

The circulation of illegal cigarettes in Sumenep District can be seen from the point of view of consumers, one of which is through cigarette companies, namely the MDS Cigarette Company. This company is a medium-sized cigarette company located in Pakandangan Sangra Village, Bluto District, Sumenep Regency, owned by Mr. Mudiyanto with an Excisable Goods Entrepreneur Principal Number 0702.1.3.3897 with the type of excisable goods Tobacco Products of the type Hand-Rolled Clove Cigarettes established June 1, 2006. The problem of illegal cigarette circulation in Sumenep Regency is caused by the target market or consumers who ask for prices that tend to be cheaper than Group I companies. The use of excise taxes on cigarette products results in higher prices, and consumers tend to choose group I cigarettes with affordable prices with a price difference that is not much different.²⁷

The affixing of excise bands on cigarette companies increases the selling price than without the affixing of excise bands. Medium-sized cigarette companies such as in the Sumenep Regency, with the economic situation and the target market of middle to lower-class people, then emphasize the price of cigarettes on the company's products at affordable and economical prices. The increase in the selling value of cigarettes with excise bands has resulted in medium-sized cigarette

²⁶ Widi Pregiati, Ardiansah, and Bagio Kadaryanto, "Penerapan Sanksi Terhadap Penjual Rokok Impor Tanpa Pita Cukai Di Kota Pekanbaru Berdasarkan UU No. 39 Tahun 2007 Tentang Perubahan Atas UU No. 11 Tahun 1995 Tentang Cukai," *DOKTRINA: Journal of Law* 6, no. 2 (2023): 184–97, <https://doi.org/https://doi.org/10.31289/doktrina.v6i2.9920>.

²⁷ Raden Faridz et al., "Indeks Dan Status Keberlanjutan Ketersediaan Tembakau Madura," *Agriekonomika* 7, no. 2 (October 1, 2018): 197, <https://doi.org/10.21107/agriekonomika.v7i2.4784>.

companies in the Sumenep Regency needing help determining the selling price. On the one hand, the selling price can be used by imposing excise bands with increased price limits, and on the other hand, consumers can be asked at affordable prices for the smooth running of cigarette products consumed with consumer interest.²⁸

The affixing of excise tapes, which indicates an increased selling price, results in minimal consumers buying them and minimal interest from the target market of medium cigarette companies. Consumers prefer to buy well-known brands or class 1 cigarettes with the price difference chosen by consumers. This situation has resulted in the emergence of illegal cigarettes with cigarette companies that want to retain their consumers by not placing excise tax stamps on their cigarette packages to meet market demand or consumer demand at an economical price. In the economic theory of the *Law of Demand*, *demand* is the amount of a good that is willing and able to be purchased at various possible prices during a specific period, assuming other things remain the same. The definition of demand can be classified broadly into two, namely. First, "demand for goods to be purchased by consumers". So consumers ask producers for the goods they will buy based on the economy or the ability to purchase these goods and various perspectives that are supporting factors for buying these goods.²⁹

The purchase of goods at consumers' request is the interest of consumers in buying from these goods. and Second, "the interest of consumers to buy goods." The level of interest from consumers to buy their goods is the fulfilment of their interest factors and the needs of consumers with an effective benchmark of prices with the needs of goods of interest to consumers.³⁰ The law of demand explains the

²⁸ Antik Suprihanti, Bonar M Sinaga, and Reni Kustiari, "The Impact of Cigarette Excise Tax Policy on Tobacco Market and Clove Market in Indonesia," *International Journal of Economics and Financial Issues* 8, no. 6 (2018): 54–60, <http://www.econjournals.comDOI:https://doi.org/10.32479/ijefi.7228>.

²⁹ Arief Tirtana and I Gede Agus Ariutama, "The Effect of Cigarette Prices and Income on Cigarettes Consumption and State Revenue: Case Study of 33 Provinces in Indonesia," *Jurnal Ekonomi Dan Bisnis* 25, no. 1 (April 20, 2022): 137–52, <https://doi.org/10.24914/jeb.v25i1.4037>.

³⁰ Mohammad Saedy Romli et al., "Model Pengendalian Supply (Penawaran) Tembakau Madura Pada Subsistem Hulu Sebagai Upaya Mendukung Penurunan Tingkat Konsumsi Rokok," *Jurnal Hexagro* 3, no. 2 (November 16, 2019): 207–25, <https://doi.org/10.36423/hexagro.v3i2.278>.

relationship between consumers' demand for a good and its price level. The Law of Demand is a hypothesis that the lower the price of an item, the more demand for that item; on the contrary, the higher the cost of an item, *the lower the demand for that item*. The entanglement between the relationship between demand and price is influenced by two things which are also related to the sale of cigarettes, which results in illegal cigarettes, including:³¹

- a) This relationship is due to a price increase, which causes consumers to look for other goods to substitute for goods whose prices have increased. Conversely, consumers will do the same if the item's price decreases, causing an increase in purchases of this item and reducing purchases of other similar goods at a higher price
- b) Price increases also result in reduced real income for buyers. Reduced income from consumers forces buyers to reduce their purchases of types of goods, especially goods that experience price increases from the usual price.

Factors determining a person's (Consumer) demand for a good is determined by several factors, which include the price of the good itself, the cost of other goods that are closely related to the sound, household income and the average income of the community, the pattern of income distribution in society, the taste of the community, population, and forecasts about future conditions.³²

The results of interviews conducted with cigarette consumers in Sumenep District, which include various types of consumer elements ranging from students, private employees, farmers, fishermen, and tailors, state that the existence of illegal cigarettes without the affixing of excise bands is a way to fulfil consumers' interest in cigarette goods at affordable prices. If this type of cigarette is affixed with an excise band, which increases in price, consumers will be less interested in these

³¹ Hamid and Samuel, "Customs and Excise Officers Authority on Illegal Cigarette in Indonesia."

³² Suprihanti, Sinaga, and Kustiari, "The Impact of Cigarette Excise Tax Policy on Tobacco Market and Clove Market in Indonesia."

medium cigarettes. It can be concretized that the problematic location of illegal cigarettes in a case study in Sumenep Regency is caused by the economic situation or average income of the target market (consumers), which is included in the lower middle economic cluster, which is a problem for the excise tax applied so that it raises the demand for cigarettes without excise bands so that the price is affordable.

Table 2: Calculation of Excise Tariff

Cost	Minister of Finance Regulation No. 109/PMK.010/2022	Law No. 39 Year 2007	Without Excise Tax Tape
Excise Tariff Price	Rp. 600	Rp. 400	-
Cigarette Production Price	IDR 150	IDR 150	IDR 150
Distribution Cost	Rp. 200	Rp. 200	Rp. 200
Price Per Bar	Rp. 950	Rp. 750	Rp. 350
Packaging Price/20 bars	Rp. 19,000	Rp. 15,000	Rp. 7,000

Source: Author's Data Processing

Based on the above calculations, it can be concluded that the problem of illegal cigarettes, both nationally and within the scope of the island of Madura, is caused by the increased price of excise tapes. The determination of tobacco excise band tariffs should refer to Law Number 39 of 2007 concerning excise. Applying tariffs based on the law has also made the price of cigarettes soaring. Not to mention that the Minister of Finance Regulation on Tobacco Excise Tariffs has a minimum price per stick sold.

One way to overcome and become a solution to the circulation of illegal cigarettes is a decrease in the excise tax band rate. Changes are needed to the excise tax tariffs made in Indonesia, especially in Law Number 39 of 2007, by differentiating the determination of excise tax rates based on the upper and middle types of cigarette companies. If reviewed based on the Theory of the Law of Demand, the determination of cigarette prices with excise bands certainly answers the statement that consumers in Sumenep District prefer branded cigarettes by buying

retail as seen in terms of the average income of the target market or consumers of medium-sized cigarette companies in Sumenep District.³³

The effectiveness of the policy of tackling illegal cigarettes without excise tax is not effective by looking at the number of violations for illicit cigarettes without excise tax in Sumenep District in 2022, as many as 1,801,743 (one million eight hundred one thousand seven hundred forty-three) cigarettes with a potential state loss of IDR. 1. 275,389,420 (one billion two hundred seventy-five million three hundred eighty-nine thousand four hundred twenty rupiah). The amount of circulation of illegal cigarettes without excise tax in Madura island that Madura Customs handled from October 2022 to August 2023 amounted to 26.8 million cigarettes with a state loss of 33 billion rupiah.

On the determination of excise rates on tobacco products with the provisions of the rules of Article 5 paragraph (1) letter a of Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise and the regulation of excise rates in the Regulation of the Minister of Finance of the Republic of Indonesia Number 192/PMK.010/2021 Regarding Excise Tariffs on Tobacco Products in the Form of Cigarettes, Cigars, Leaf or Klobot Cigarettes, and Sliced Tobacco, the first amendment to the excise tariff of this Ministerial Regulation is regulated in Minister of Finance Regulation Number 109/PMK.010/2022 for the implementation of excise tariffs in 2022 and the second amendment to the Regulation of the Minister of Finance of the Republic of Indonesia Number 192/Pmk.010/2021, and Regulation of the Minister of Finance of the Republic of Indonesia Number 191/PMK.010/2022 which regulates the excise tariffs on tobacco products in 2023.³⁴

Legal effectiveness theory is a theory that examines and analyzes the success and failure and factors that influence the implementation and application of law. The

³³ Tirtana and Ariutama, "The Effect of Cigarette Prices and Income on Cigarettes Consumption and State Revenue: Case Study of 33 Provinces in Indonesia," 143.

³⁴ Antik Suprihanti et al., "The Impact of Cigarette Tax Policy on Economic Surplus Distribution of Cigarette Industry in Indonesia," *Jurnal Agro Ekonomi* 37, no. 1 (2019): 1–23, <https://core.ac.uk/download/pdf/234646993.pdf>.

three studies of legal effectiveness theory include a) Successful implementation of the law, b) Failure in implementation, and c) factors that influence it.³⁵

Legal provisions that have been established do not achieve their intentions or are unsuccessful in their implementation. An influencing factor causes or influences the implementation and application of the law. Influencing factors can be studied from the aspect of success to the element of failure. In the problem of illegal cigarettes without excise tax bands, the effectiveness is included in the study of the theory of legal effectiveness, which fails in its implementation, looking at the very high number of violations for illegal cigarettes without excise tax bands in 2022 in Sumenep District.³⁶

According to Soerjono Soekanto, whether a law is effective or not is determined by 5 (five) factors, namely: a) legal factors, b) enforcement factors, c) facilities or supporting facilities, d) community factors, and d) cultural factors.³⁷ The factors mentioned above in the ineffectiveness or failure in the implementation of the perspective of the effectiveness of illegal cigarette control can be seen in terms of legal factors with the application of excise tariffs that are too high, resulting in many unlawful cigarettes as a means of taking low prices as demanded by consumers, the enforcement factor can be seen that the Madura customs office located in Pamekasan district is not optimal in supervising illegal cigarettes in Sumenep Regency, Sampang Regency and Bangkalan Regency and enforcement officers in the field of excise are very minimal can only be done by customs investigators, supporting factors means to reach remote areas including islands in Sumenep Regency. These community factors prefer low prices as the study of the Law of Demand theory. The factor of human culture in social life chooses the

³⁵ Anhari Achadi, Widyastuti Soerojo, and Sarah Barber, "The Relevance and Prospects of Advancing Tobacco Control in Indonesia," *Health Policy* 72, no. 3 (June 2005): 333–49, <https://doi.org/10.1016/j.healthpol.2004.09.009>.

³⁶ Romli et al., "Model Pengendalian Supply (Penawaran) Tembakau Madura Pada Subsistem Hulu Sebagai Upaya Mendukung Penurunan Tingkat Konsumsi Rokok."

³⁷ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, Cetakan ke (Jakarta: Rajawali Pers, 2019), 27–28.

economic cost of cigarettes without excise tape to adjust to the social life of the lower community.

Conclusion

Legal issues regarding the determination of excise tax rates on cigarette companies in Madura with the determination of excise tax rates mapped to the price of excise tax bands are burdensome for cigarette companies and consumers of their target market. Determination of the tariff of excise tax on tobacco products (cigarettes) is reasonably expensive and unaffordable, causing the circulation of illegal cigarettes to soar and many State losses caused by the circulation of unlawful cigarettes. The effectiveness of the policy of tackling illegal cigarettes without excise bands nationally and in Madura by reducing excise band tariffs that adjust to the reach of the community by reviewing the target market targeted by the initial corridor of regulating excise band tariffs according to existing regulations. The contribution of this research is that it can be used as a basis or consideration in determining excise tax rates for those who have the authority to decide cigarette excise tax rates, especially for small-scale cigarette factories such as those in several districts in Madura.

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