

ELUCIDATION OF
REGULATION OF THE PROVINCE OF SOUTH SULAWESI
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ON
LEVIES OF EXTENSION OF PERMITS FOR EMPLOYMENT
OF FOREIGN WORKERS

I. GENERAL

Under Government Regulation Number 97 of 2012 on Traffic Control Levies and Extensions to Employing Foreign Workers Permits, the Regional Government has additional levies that can be enforced since January 2013. Both types of levies, namely Traffic Control Levies and Extensions to Employ Employment Permits Foreign Workers (IMTA) have not yet been regulated in Law Number 28 of 2009 on Regional Taxes and Regional Retribution, so that it is determined later by government regulations. This is in accordance with the mandate of Article 150 of Law Number 28 of 2009 on Regional Taxes and Regional Levies, which stipulates that the types of fees other than those stipulated in Article 110 section (1), Article 127, and Article 141 insofar as they meet the criteria of one type of levy such as Public Service Levies, Business Service Levies, or Certain Licensing Levies are determined by Government Regulations.

IMTA Extension levies are levied on the service of granting an IMTA extension by the Governor or an appointed Officer to a Foreign Manpower Employer who already has an IMTA from the Minister responsible for manpower or a designated Officer. The issuance of an extension of the Permit to Employ Foreign Workers can be done either by the provincial or regency/municipal governments. The Governor grants an IMTA extension for Foreign Workers (TKA) whose work locations are cross-regency/city in one province, while the Regent or Mayor issues an IMTA extension for TKA whose work location is only in the relevant regency/municipal area.

Collection of IMTA Extension Levy is relatively easy to be accepted psychologically by the public because the levy was previously made by the Central Government through the Ministry of Manpower and Transmigration in the form of Compensation for the Use of Foreign Workers which is a Non-Tax State Revenue (PNBP). Although this levy was stopped for about 2 (two) years, namely 2013 and 2014, it is expected that the collection will not experience significant obstacles. Moreover, because this regional regulation does not create additional burdens on compulsory levies because the tariff determined is the same as the prevailing tariff when the service is still a PNBP.

In terms of potential aspects, the acceptance of this levy is considered to have a feasibility that is very likely to increase quite rapidly in the future. In the 2015 ASEAN Free Market era, Indonesian regions including South Sulawesi Province, would be the target and invasion of foreign workers from various countries. Therefore, the local government through the relevant offices needs to prepare many things, including preparing the quality of our labor resources in order to compete with foreign workers.

The entry of foreign workers is inevitable, mainly because of the large number of foreign investors entering South Sulawesi. What must be done is to set a strategy so that the presence of foreign workers brings benefits to local workers. This regional regulation has regulated the instrument, namely by attracting levies as compensation for the use of foreign workers whose part of the proceeds are used to finance activities to improve the technical capabilities and education expertise of local workers. Therefore, the regional authority in managing the IMTA Extension Retribution will be a golden opportunity that must be utilized as well as possible by the Region to advance the local workforce in the Region.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Sufficiently clear.

Article 3

Sufficiently clear

Article 4

Sufficiently clear.

Article 5

Sufficiently clear.

Article 6

IMTA is valid for one foreign worker.

Article 7

Sufficiently clear.

Article 8

Section (1)

Sufficiently clear.

Section (2)

The USD exchange rate used refers to the Bank Indonesia middle rate.

Article 9

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

In the event that the levy rates determined in the Regional Regulation needs to be adjusted because the cost of providing services is quite large and/or the tariff is no longer effective in controlling the demand for the service, the Governor can adjust the levy rates.

Article 10

Sufficiently clear.

Article 11

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Sufficiently clear.

Article 15

Section (1)

Sufficiently clear.

Section (2)

The term “level of service usage” means the number or number of IMTA extensions issued.

Section (3)

Sufficiently clear.

Article 16

Section (1)

The term “cannot be outsourced” means that the entire process of collecting levies cannot be handed over to third parties. However, in this sense it does not mean that local governments may not cooperate with third parties. With a very selective levies collection, the Regional Government can invite cooperation with certain bodies that because of their professionalism are credible to participate in carrying out some of the duties of collecting levies more efficiently.

The activities of collecting fees that cannot be cooperated with third parties are the activities of calculating the amount of fees owed, supervising the payment of fees and collecting fees.

Section (2)

Other similar documents are other administrative fees collection documents that contain the amount of the levy owed, for example Recu, Ticket and fixed payment card.

Section (3)

Sufficiently clear.

Article 17

Section (1)

Sufficiently clear.

Section (2)

Agency as a Levy Payer that employs Mr. X (TKA), make IMTA extension payments for a period of 12 (twelve) months. However, in practice Mr. X only works for 8 (eight) months, so there is an overpayment for 4 (four) months. For the said overpayment, the Local Government is obligated to return it to the Agency as a Levy Payer that employs the TKA.

Section (3)

Levies can be paid at the place of service, but SKPD Levies Manager is required to encourage and create a mechanism for payment of levies directly to the designated bank.

Section (4)

The levies management work unit that is in an area where geographical conditions are difficult to reach by transportation can deposit the proceeds of the levy in excess of the provisions of one working day based on the Governor Regulation.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 18

Sufficiently clear.

Article 19

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The term “condition beyond of his or her authority” means a condition that occurs outside the will/power of the levy payer. For example due to levy payer sick or affected by natural disasters.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Section (1)

Sufficiently clear.

Section (2)

The Governor's decision is based on the results of research conducted by the related SKPD.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Interest reward for late return of overpaid levies is calculated from the deadline of 2 (two) months from the issuance of the SKRDLB until the time of overpayment.

Article 22

Sufficiently clear.

Article 23

Section (1)

The term "reduction" means the provision of opportunities to assisted retribution compulsory to obtain a reduction in the amount of levy that must be paid by him. Reduction can include reducing the amount of administrative sanctions, or reducing the amount of the principal levy.

The term “lighting” means the granting of opportunity to certain obligatory negotiations to pay in installments or delay payment under certain conditions.

The term “exemption” means the release of certain compulsory levies on the obligation to pay fees.

The basis for granting deductions and lighted levy is related to the ability of levy payers, while the exemption of fees is associated with the object of levy.

Section (2)

The term “Force majeure” means a situation that occurs outside the will/power of levy payer. For example because of natural disasters

Section (3)

Sufficiently clear.

Article 24

Section (1)

When the levy collection expires, it needs to be determined to provide legal certainty when the levy debt cannot be billed anymore

Section (2)

Point a

In the event of a Reprimand Letter or Warning Letter, the billing expiration is calculated from the date of the said Reprimand Letter or Warning Letter.

Point b

The term “direct recognition of debt” means the levy payer with his or her awareness stating that he still has a retribution debt and has not paid it off to the regional government.

The term “recognition of indebtedness” means the levy payer do not explicitly state directly that they have a debt levy to the local government.

Example: A levy payer submits an application for installments/postponement of payment, or a levy payer files an Objection Request

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 25

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Sufficiently clear.

Article 30

Section (1)

Investigators in the area of regional levies are certain Civil Servants in the Regional Government who are appointed by the Minister of Justice in accordance with prevailing legislation.

Investigations in the area of regional levies are carried out according to the provisions stipulated in the provisions of the applicable Criminal Procedure Code.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Sufficiently clear.

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