



DETERMINATION OF ZERO RUPIAH RATE AGAINST NON-TAX STATE REVENUES FOR INTELLECTUAL PROPERTY RIGHTS SERVICES

Nevey Varida Ariani¹, Amirudin²

Research and Development Agency for Law and Human Rights of the Republic of Indonesia¹
English Departement, Faculty of Teacher Training and Pedagogy University of Muhammadiyah, Prof.
Dr Hamka and Postgraduate Programme of Universiti Utara Malaysia²
Corresponding email: nevey.ariani@yahoo.com

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ABSTRACT

The government continues to encourage the public to innovate to grow intellectual property by providing protection and legal certainty, including the application of Non-Tax State Revenue (Penerimaan Negara Bukan Pajak - PNBP) of Zero Rupiah. The problem is how to set a zero IDR Rupiah rate on non-tax state revenues for intellectual property services. The research method used is normative juridical. Provision of a non-tax state revenue rate of zero rupiahs determined based on certain conditions for intellectual property services such as social, religious, and state activities, and given specifically to underprivileged communities, students or /college students, Micro, Small and Medium Enterprises, or force majeure conditions, as well as activities that support the programs of the Ministry of Law and Human Rights, especially the Directorate General of Intellectual Property. Optimization of the budget or the achievement of PNBP in the Directorate of Intellectual Participation needs to be monitored and evaluated every year. Therefore, it is necessary to have a legal basis in the form of a Regulation of the Minister of Law and Human Rights concerning the Amount, Requirements, and Procedures for the imposition of Non-Zero Rupiah State Revenue Rates for Intellectual Property Services by first through the approval of the Minister of Finance.

Keywords: not tax; zero rupiah; intellectual property

INTRODUCTION

Revenue sourced from Taxes is revenue obtained from regulations or arrangements for the Administration of State Financial Management due to the existence of the State as a State. Therefore, the revenue from this tax should be smaller than the receipt of the taxable object itself. The object of non-tax state revenue in the Republic of Indonesia is the vast expanse of natural wealth from Sabang to Merauke, covering a wide variety of human activities, including sources of wealth that exist throughout the territory of the Unitary State of the Republic of Indonesia, on land, at sea, and in the bottom. Earth, both those that have been recorded and are still raw or uncultivated.¹

According to Law Number 9 of 2018 concerning Non-Tax State Revenue, PNBP is a levy paid by individuals or entities by obtaining direct or indirect benefits for services or utilization of resources and rights obtained by the state, based on laws and regulations, which into external central government revenue, tax and grant receipts and managed in the state revenue and expenditure budget mechanism. PNBP is indeed a source of state revenue that is no less important than other sources of revenue.² In 2021 the realization of PNBP has reached IDR 452 trillion or 151.6 percent of the 2021 APBN target of IDR 298.2 trillion. This realization grew 31.5 percent compared to 2020 which amounted to Rp343.8 trillion.³

1 Sasmito Sasmito and Anton Wahidin Widjaja, "Analisis Pengaruh Penerimaan Kekayaan Intelektual, Administrasi Hukum Umum Dan Keimigrasian Terhadap Penerimaan Negara Bukan Pajak Di Lingkungan Kementerian Hukum Dan Ham RI," *Jurnal Ilmiah Manajemen Ubhara* 1, no. 1 (2019).

2 Taufik H. Simatupang, "Sistem Hukum Perlindungan Kekayaan Intelektual Dalam Rangka Meningkatkan Kesejahteraan Masyarakat," *Jurnal Penelitian Hukum De Jure* 17, no. 2 (2017): 195.

3 2022. Ministry of Finance. Realization of State Revenue in 2021 reaches Rp 2, 003, 1 Trillion, Exceeding the 2021 State Budget Target. <https://>

As the results of previous research related to the Type of 0 Rupiah PNPB to run the Land Reform which aims to equitable distribution of land through the determination of zero rupiah tariffs for PNPB against certain parties is one of the best solutions that must be carried out by the central and regional governments and needs to be supported by several ministries to implement the Minister of Land Regulation.⁴ This will be one of the sources of reference for the policy of increasing the registration of Intellectual Property in the Ministry of Law and Human Rights by providing PNPB rates up to Zero Rupiah through this study.

PNPB plays an important role in contributing to the country's development.⁵ The existence of Non-Tax State Revenue from the Ministry of Law and Human Rights - RI, seen from year to year has a meaningful and significant value when compared to the total budgeting at the Ministry level. Non-Tax State Revenues attached to the Ministry of Law and Human Rights are the foundation and great prospect for the implementation of good governance, especially units that provide public services that generate PNPB and other echelons I units within the same Ministry. The function of the Ministry's PNPB is very important to maintain the stability of the current year's budget. PNPB becomes efficient and able to be a budget supplement when the target of state revenue from other sources is not achieved.⁶

PNPB of the Ministry of Law and Human Rights - RI, is expected to be able to answer operational needs in the field because PNPB has functions such as Budgeting, the budgeting function of PNPB becomes more dominant if the

assumption target of state revenue is not achieved, then through a permit to use PNPB, it can cover any deficiencies that may arise as a result of state revenue from the source of tax revenue is not achieved.⁷ so that the budget cycle can run normally. Regulatory, the function of regulating services to the community becomes more optimal, due to the availability of funds.⁸

Indonesia has a lot of potential, which increasingly determines the acceleration of economic growth in the era of globalization. Competition is getting tougher, especially in advancing business, especially MSMEs, it is necessary to protect intellectual property rights by registering products as an effort to protect the law. A total of 4670 universities, more than 64 million MSMEs, 514 districts/cities, 1,340 ethnic groups, and, 17,491 are potentials that must be pursued in protecting their intellectual property rights. Until 2020, 699,905 IPR products that are still protected in Indonesia, with brand protection reaches 411,458 products both abroad and domestically.⁹

Intellectual property is a property that arises from human intellectual abilities. Works that arise or are born from human intellectual abilities can be in the form of works in the fields of technology, science, art, and literature. These works are born or produced on the intellectual abilities of humans through the outpouring of time, energy, thoughts, creativity, taste, and intention. This is what distinguishes intellectual property from other types of property that can also be owned by humans but are not produced by human intellect.

Works produced on human intellectual abilities are naturally secured by providing legal protection for such property.¹⁰ Currently, legal

[www.kemenkeu.go.id/publikasi/berita/realisasi-
pendapatan-negara-2021-achieve-rp2003-1-
triliun-lalui-target-apbn-2021/](http://www.kemenkeu.go.id/publikasi/berita/realisasi-pendapatan-negara-2021-achieve-rp2003-1-triliun-lalui-target-apbn-2021/), No Title, n.d.

- 4 Safrin Salam, "Analisis Hukum Penetapan Tarif PNPB Pada Pihak Tertentu Dalam Percepatan Sertifikasi Tanah," *Justitia Jurnal Hukum* 1, no. 1 (2017).
- 5 Dwi Agustine Kurniasih, "Pembaharuan Pengelolaan Penerimaan Negara Bukan Pajak," *Rechtsvinding* 5, no. 2 (2016): 257-275.
- 6 Nevey Varida Ariani, "Enforcement of Law of Copyright Infringement and Forgery with the Rise of the Digital Music Industry," *Jurnal Penelitian Hukum De Jure* 21, no. 2 (2021): 223.

- 7 Rahadatul Aisyi et al., "Mathematical Modeling to Estimate Non-Tax State Revenues," *International Journal of Quantitative Research and Modeling* 3, no. 2 (2022): 72-76.
- 8 Edward Omar Sharif Hiariej, "Asas Lex Specialis Systematis Dan Hukum Pidana Pajak," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 1.
- 9 Directorate General of Intellectual Property. *Annual Report of the Directorate General of Intellectual Property 2020*. Pg. 4 Title, n.d.
- 10 "Ginting Antonio Peran Lembaga Manajemen Kolektif Nasional Dalam Perkembangan Aplikasi Musik Streaming (The Role of National Collective Management Institutions in The Rise of Music Streaming Applications) De Jure Vol 13 No.3 Tahun

protection for the work produced is known as Intellectual Property Rights (IPR). IPR is a way of protecting intellectual property by using existing legal instruments. Intellectual Property Rights, abbreviated as “IPR” is the equivalent of the word commonly used for Intellectual Property Rights (IPR), namely rights that arise for the results of thought processes that produce a product or process that is useful for humans. The introduction of intellectual property rights as individual property rights that are intangible and with clear legal rules is very important for the people of Indonesia.¹¹

From the IPR point of view, legal clarity governing the rights to work is needed to provide protection and a sense of security. In addition, the clarity of the rules will increase the enthusiasm to produce innovative, inventive, and productive works. Encouraging national economic growth, intellectual property in Indonesia provides legal certainty for the imposition of Zero Rupiah PNBP rates with certain considerations.¹² The definition of “certain considerations” are: the organization of social activities, religious activities, state or government activities, including for full investigation, preliminary investigation, and taxation, circumstances beyond the ability of the Payer or force majeure conditions, poor people, outstanding students, and micro-enterprises, small, and medium, and/or Government policies to encourage economic growth.¹³

In developing potential and growing the economy, the Directorate General of Intellectual Property encourages the public to register intellectual property. The types of PNBP that apply to the Directorate General include revenues from

the provision of intellectual property services. The provision of intellectual property services consists of services in the field of copyright and industrial design, services in the field of patents, integrated circuit layout designs, and trade secrets, services in the field of marks and geographical indications; and services in the field of intellectual property consulting.¹⁴

In Indonesia, the awareness to register intellectual property is still lacking, among others, in terms of the cost of the registration process which is still considered expensive, socialization of intellectual property that has not been optimal, and others. The government continues to make efforts to create policies that encourage intellectual property awareness.¹⁵

Based on the provisions of Article 24 of Government Regulation Number 69 of 2020 concerning Procedures for Setting Tariffs on Types of Non-Tax State Revenues, then the determination of the amount, requirements, and procedures for imposing zero rupiah tariffs must first obtain approval of the Minister.¹⁶

Intellectual property registration is legal protection for what has been created in fact, this intellectual property right is useful for protecting entrepreneurs from the possible use of their property without permission. In 2015–2021, 1,184 cases of intellectual property rights infringements were handled, with 958 of them handled by the National Police. A total of 658 cases related to trademarks, 243 copyright cases, 27 industrial design cases, 8 trade secret cases, 2 integrated circuit layout cases, and 2 plant variety protection cases.¹⁷

2019” (n.d.).

- 11 Ahmad Kosasih, “Pendekatan Grounded Teori (Grounded Theory Approach): Sebuah Kajian Sejarah, Teori, Prinsip Dan Strategi Metodennya” 5 (2018): 122–132.
- 12 Nizar Apriansyah, “Perlindungan Indikasi Geografis Dalam Rangka Mendorong Perekonomian Daerah,” *Jurnal Penelitian Hukum De Jure* 18, no. 4 (2018): 525.
- 13 Nevey Varida Ariani, Maria Lamria, and Fuzi Narindrani, “Legal Aspect of Individual Company for Micro and Small Business in Omnibus Law on Job Creation,” *Proceedings of the 2nd International Conference on Law and Human Rights 2021 (ICLHR 2021)* 592, no. Iclhr (2021): 1–7, <https://www.atlantis-press.com/proceedings/iclhr-21/125963848>.

- 14 R B Jaya and A T Hardiyanto, “Pengaruh Pendapatan Rupiah Murni (RM) Dan Pendapatan Negara Bukan Pajak (PNBP) Terhadap Alokasi Belanja Modal Pada Balai Besar Industri Agro Tahun 2010-2017” (2018), <https://jom.unpak.ac.id/index.php/akuntansi/article/viewFile/1849/1557>.
- 15 “Suyut Margono Dalam Diskusi Publik Tanggal 30 Juni 2022 Secara Daring Di Badan Penelitian Dan Pengemban HUKUM Dan HAM,” n.d.
- 16 *Peraturan Pemerintah Nomor 28 Tahun 2019 Tentang Tentang Jenis Dan Tarif Atas Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Kementerian Hukum Dan Hak Asasi Manusia*, n.d.
- 17 “Wibi Pangestu Pratama, There Have Been 1,184 Cases of Violation of Intellectual Property Rights Acted in RI since 2015.” <https://Economic>.

Furthermore, as a consequence of membership in the World Trade Organization (WTO), Indonesia must adjust all laws and regulations in the field of Intellectual Property Rights to be in line with the Trade Aspects of Intellectual Property Rights (TRIP) standards.¹⁸ One proof that Indonesia pays serious attention to protecting IPR, Indonesia has an agency authorized to manage Intellectual Property Rights, namely the Directorate General of Intellectual Property Rights which is under the Ministry of Law and Human Rights of the Republic of Indonesia.¹⁹

In the process of protecting intellectual property and encouraging economic growth, it is necessary to analyze the regulations concerning the Procedure for Setting Tariffs on Types of Non-Tax State Revenue, especially related to the determination of tariffs on the type of zero Rupiah PNPB rates with certain considerations. Based on the background of the above problems, the problem is how to analyze the provision of zero Rupiah PNPB tariffs on Intellectual Property Rights.

RESEARCH METHODS

This study uses a normative juridical approach. Focus on the application of normative legal provisions in action on every particular legal event that occurs in society by examining theoretical matters concerning principles, conceptions, views, legal doctrines, and laws and regulations.²⁰ Primary data were obtained from online research resource persons using the Zoom Meeting application, consisting of the Policy Balance Basis for Provision of Zero Rupiah PNPB rates for Intellectual Property Services with primary data in the form of data

collection, either through interviews or through focused discussions/FGD [online/offline].

The resource persons/respondents are the Ministry of Finance, the Ministry of Cooperatives and MSMEs, Intellectual Property Consultants, Intellectual Property Setra, and the Research and Development Institute for Higher Education Business Actors/Creative Economy Industry. Secondary data were obtained through literature studies and secondary legal materials in the form of books, journals, related research results, and papers relevant to the research problem. This research is analytical descriptive with qualitative analysis method which aims to describe the actual conditions in the field by systematically, factually, and accurately describing the facts, nature, and relationships between phenomena and data that have been collected by SWOT analysis.²¹

DISCUSSION AND ANALYSIS

A. Analysis of the Provision of Zero Rupiah PNPB Tariffs for Intellectual Property Rights

In Article 2 of Law no. 9 of 2018 concerning Non-Tax State Revenue, it is stated that the PNPB arrangement is aimed at:²²

- a. Realizing an increase in the independence of the nation to strengthen fiscal resilience and support sustainable and equitable national development.
- b. Improving people's welfare, quality economic growth, income distribution, and environmental preservation sustainable and equitable.
- c. Realizing clean, professional, transparent, and accountable government services to support good governance.

In general, the objectives of intellectual property protection through IPR are as follows:²³

- a. Provide legal clarity regarding the relationship between intellectual property and creators, copyright holders, and users of creations for a certain period.

Bisnis.Com/Read/20211006/9/1451327/Ada-1184-Case-Pelaksanaan-Haki-Ditindak-Di-Ri-Sejak-2015. Retrieved 28 June 2022.”

18 Ayup Suran Ningsih, “Implikasi Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Pada Pelaku Usaha Mikro Kecil Dan Menengah (UMKM),” *Jurnal Penelitian Hukum De Jure* 19, no. 2 (2019): 207.

19 Penerimaan Negara and Bukan Pajak, “Www.Bphn.Go.Id” (2014).

20 Salam, “Analisis Hukum Penetapan Tarif PNPB Pada Pihak Tertentu Dalam Percepatan Sertifikasi Tanah.”

21 Mostafa Ali Benzaghta et al., “SWOT Analysis Applications: An Integrative Literature Review,” *Journal of Global Business Insights* 6, no. 1 (2021): 55–73.

22 Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak, n.d.

23 Negara and Pajak, “Www.Bphn.Go.Id.”

- b. Giving awards for the success of efforts in creating intellectual work.
- c. Promote the publication of works in the form of IPR documents that are open to the public.
- d. Encouraging the creation of information transfer efforts through intellectual property and technology transfer through patents.
- e. Protect intellectual works against the possibility of being imitated by others.

The benefits of intellectual property rights are as follows:²⁴

- a. In business-wise, there is protection against misuse or counterfeiting of intellectual works owned by other parties at home and abroad.
- b. For inventors, it can guarantee legal certainty for both individuals and groups and avoid losses due to counterfeiting and fraudulent actions of other parties.
- c. For the government, there is a positive image of the government implementing IPR at the WTO level.
- d. There is legal certainty for rights holders in carrying out their business without interference from other parties.
- e. Rights holders can take legal remedies both civil and criminal in the event of an infringement/imitation.
- f. Rights holders may grant permits or licenses to other parties.

Regarding the determination of the zero Rupiah rate, Article 13 of Law No. 9 of 2018 states that “with certain considerations, the tariff for this type of PNBP can be set to zero rupiahs. By the elucidation of PP number 69 the Year 2020 concerning Procedures for Setting Tariffs on Types of Non-Tax State Revenues, the definition of “certain considerations” include but are not limited to:

- a. Organizing social activities, religious activities, and state or government activities, including full investigation, preliminary investigation, and taxation.
- b. Circumstances beyond the ability of the Payer to make payment or the conditiona of force majeure.

24 Kata Sambutan, “Laporan Akhir Kelompok Kerja Analisis Dan Evaluasi Hukum Terkait Optimalisasi Pendapatan Negara Melalui Penerimaan Negara Bukan Pajak (PNBP)” (2019).

- c. Poor people, outstanding students, and micro, small and medium enterprises; and/or
- d. Government policies to encourage economic growth.

Law No. 9 of 2018, regulates the imposition of zero tariffs as a form of the Government’s attention and responsibility in the context of national economic recovery due to COVID-19. The creative economy is growing, of course, it has a very significant impact, including an increase in the number of Intellectual Property Registrations in Indonesia. Meanwhile, the management of PNBP at the Directorate General of AHU during the Covid pandemic was able to maintain an effective performance assessment with an effectiveness percentage of 82.54% in 2020 and 83.34% in 2021.²⁵

The policy was the implementation of the new normal scenario to grow the country’s economy which slumped during the implementation of PPKM. The imposition of a zero IDR tariff on PNBP is also applied to non-tax revenues in the Ministry of Health, for example during this pandemic where the zero IDR service is clarified in the Minister of Health Regulation No. 19 of 2020.

Based on Government Regulation No. 69 of 2020, article 24, the PNBP tariffs up to Rp. 0.00 (zero Rupiah) or 0% (zero percent) can be provided, with certain considerations. Such as the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 13 of 2021 concerning Amendments to the Regulation of the Minister of Law and Human Rights Number 38 of 2018 concerning Patent Applications, to support efforts to change regulations related to ease of doing business, protection, empowerment of micro-enterprises, small and medium enterprises as well as the improvement of the investment ecosystem, efforts are needed to speed up the processing time for the completion of applications in the field of simple patents.²⁶

25 “Kusumaramdhani, W. (2022). Non-Tax State Revenue at the Directorate General of General Legal Administration in the Perspective of State Finance Law. LEGAL BRIEF, 11(2), 1492–1506. <https://doi.org/10.35335/Legal.V11i2.325>” (n.d.).

26 Ningsih, “Implikasi Undang-Undang Nomor 5 Tahun 1999 Tentang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat Pada Pelaku

History has recorded from ancient societies to the present that the right to control land and goods by a person is recognized and respected by the government to protect their interests and wealth.²⁷ Along with changes in technology, the conception of wealth also changes. Currently, the legal system puts wealth into three categories, first, most people recognize private property rights in private property, known as tangible things; second, wealth in real terms such as land and buildings; and third, a property known as intellectual property.²⁸ Regarding intellectual property rights, all countries recognize property rights in the form of product ideas, such as in the form of copyrights, patents, trademarks and trade secrets, the layout of integrated circuits, and plant varieties.²⁹

A patent is an exclusive right to utilize (make, use, sell) the results of an invention within a certain period and within the scope in which the patent is registered. A patent is granted for an invention that meets original requirements (novelty), whether is new or inventive (non-obviousness), and has the potential to generate economic value and benefit society (usefulness).³⁰

In addition to limited monopoly rights in the form of patents, the mentions several other types of limited monopoly rights which are generally reserved for intangible assets, such as copyrights, trademarks, and product design protection. protection).³¹ The patent protection mechanism directs the notion of the patent as an invention that is opened comprehensively within a formal framework so that other parties know and acknowledge what the inventor has

produced. Related to economic value, patents are related to limited monopoly rights for an inventor. The basis for the importance of patents is the need for recognition and protection for inventors for the efforts and costs that have been expended in producing useful new inventions.³²

As a developing country supported by the growth of the industrial and manufacturing sectors, Indonesia has an interest in the issue of “profiting from innovation” and the “appropriability” of innovation actors. The ability to protect innovation results and bring in economic value is an absolute must for innovators in the hope of encouraging innovation activities.³³ Government support in protecting intellectual property rights (IPR) that have been formally declared must also be supported by law enforcement. Concerning the importance of recognizing IPR and the ability of innovation actors to capture economic value, this study seeks to understand innovation actors in the Indonesian economy in protecting their findings by using formal methods of appropriability, especially patents.³⁴

This study is important, both from a public policy perspective and from an academic perspective. The development of a public policy perspective related to patent policy in encouraging innovation activities and the realization of the concept of good governance in this area will contribute to and enrich knowledge, both from a policy and academic perspective.

The PNBPs types and rates of patents and industrial designs of up to Zero Rupiahs is applicable at the Directorate General of Intellectual Property by Government Regulation of the Republic of Indonesia Number 28 of 2019 concerning Types and Tariffs of Non-Tax State Revenues Applicable to the Ministry of Law and Rights Human Rights.³⁵

Whereas further provisions regarding the amount, requirements, and procedures for imposing

Usaha Mikro Kecil Dan Menengah (UMKM).”

27 Undang-Undang Nomor 20 Tahun 2016 Tentang Merek Dan Indikasi Geografis, n.d.

28 Kholis Roisah, “Kebijakan Hukum ‘Transferability’ Terhadap Perlindungan Hak,” *Jurnal Law Reform* 11, no. 2 (2015): 241–254.

29 *Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta*, n.d.

30 Salam, “Analisis Hukum Penetapan Tarif PNBPs Pada Pihak Tertentu Dalam Percepatan Sertifikasi Tanah.”

31 Irma Rosmayati, Eliya Fatma Harahap, and Hani Siti Hanifah, “Hak Kekayaan Intelektual Merk Dalam Undang-Undang Larangan Praktek Monopoli Dan Persaingan Usaha Tidak Sehat,” *Jurnal Kalibrasi* 19, no. 2 (2022): 138–145.

32 Desyanti Suka Asih K.Tus, “Hak Ekonomi Dan Hak Moral Karya Cipta Potret Di Sosial Media,” *Vyavahara Duta* 14, no. 1 (2019): 12.

33 Undang-Undang Nomor 13 Tahun 2016 Tentang Paten, n.d.

34 Simatupang, “Sistem Hukum Perlindungan Kekayaan Intelektual Dalam Rangka Meningkatkan Kesejahteraan Masyarakat.”

35 *Peraturan Pemerintah Nomor 28 Tahun 2019 Tentang Jenis Dan Tarif Atas Jenis Penerimaan Negara Bukan Pajak Yang Berlaku Pada Kementerian Hukum Dan Hak Asasi Manusia.*

tariffs, it is regulated in a Regulation of the Minister/Head of Institution. implementing the provisions of Article 14 of Law Number 9 of 2018 concerning Non-Tax State Revenue, it is necessary to stipulate a Government Regulation concerning Procedures for Setting Tariffs on Types of Non-Tax State Revenue. PNBPN Tariff policy with certain considerations can be set up to zero Rupiah. The amount, requirements, and procedures for imposing tariffs must first obtain approval from the Minister of Finance.³⁶

The definition of “certain considerations” include but are not limited to:

- a. Organizing social activities, religious activities, and state or government activities, including full investigation, preliminary investigation, and taxation.
- b. Circumstances beyond the ability of the Payer to make payment or force majeure conditions.
- c. Underprivileged communities, outstanding students, and micro, small and medium enterprises; and/or.
- d. Government policies to encourage economic growth.

Basic Considerations for Compiling PNBPN Rates on Services are as follows:

1. The impact of the imposition of tariffs on the community, the business world, and socio-culture: paying attention to the community’s willingness to pay and the community’s ability to pay.
2. Service delivery costs: based on the cost approach: (a) cost minus, i.e. the tariff is calculated lower than the costs incurred to finance the services; (b) cost recovery, i.e. the tariff is calculated to equal the costs incurred to finance the services; (c) cost plus, i.e. the tariff is calculated higher than the cost incurred to finance the service.
3. The aspect of justice: ensuring that every person or customer gets the same service in accordance with the rights and services received and takes into account the social situation and conditions of the community
4. Government policy by paying attention to,

36 Salam, “Analisis Hukum Penetapan Tarif PNBPN Pada Pihak Tertentu Dalam Percepatan Sertifikasi Tanah.”

among others, international relations or agreements. In the form of a Presidential policy, a policy determined by the Minister, or a policy determined by the Minister/Head of the relevant Institution.³⁷

Provisions for PNBPN Rates up to Zero Rupiah on Intellectual Property Services

1. Provisions for PNBPN Types and Tariffs of Rp 0.00 (zero rupiahs) or 0% (zero percent)³⁸

Table 1 Provisions on Types and Tariffs of PNBPN

Type of PNBPN	PNBPN Subject	PNBPN Rates
Patent Annual Fee	<ul style="list-style-type: none"> • Micro Business, Small Business, • Educational Institutions, and Research Institutes • Government Development 	10% (ten percent) of the rates listed in the Appendix
Patent Annual Fee	<ul style="list-style-type: none"> • Government Research and Development Institute, • State and Private Universities, • Public and Private Schools • Other Government Educational Institutions in certain circumstances 	0.00 Rupiah (zero rupiah)
Patent Annual Fee	patent that is granted or waqf for social and/or public interest	IDR 0.00 (zero rupiah)

37 “Results of the Public Discussion, Dated July 6, 2022 Online at the Legal and Human Rights Research and Development Agency with the Ministry of Finance, the Ministry of Cooperatives and MSMEs, Intellectual Property Consultants, Intellectual Property Right,” n.d.

38 Peraturan Pemerintah Nomor 69 Tahun 2020 Tentang Tata Cara Penetapan Tarif Atas Jenis PNBPN, n.d.

Request for data change and change of name and/or address	changes in data and changes in names and/or addresses of creators, copyright holders, owners of related rights products, and/or recipients of rights are submitted not because of the applicant's fault	IDR 0.00 (zero rupiah)
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Source : PP No. 28 Year 2019

2. Further provisions regarding the requirements and procedures for imposing tariffs as referred to are regulated in a Regulation of the Minister of Law and Human Rights after obtaining approval from the Minister of Finance.

Provision of Zero Rupiah PNBП Tariff on Intellectual Property Services Article 49 of PMK 113 of 2021, namely: If certain considerations to regulate tariffs for types of PNBП up to Rp. 0.00 or 0% is not in accordance with certain consideration criteria regulated in PP 69 of 2020, then Leaders of PNBП Management Agencies can submit a request for approval to set tariffs for PNBП types up to zero rupiah / 0% with certain considerations pursuant to provisions of PP 69 of 2020. With the following notes:³⁹

1. The regulation of PNBП rates of up to zero rupiahs on Intellectual Property (KI) services is regulated in closed manner (only on certain criteria) in PP 28 of 2019.
2. Referring to Article 49 of PMK 113 of 2021, DJKI may propose to the Minister of Finance a letter of application for the provision of PNBП rates of up to zero rupiah/percent accompanied by supporting data and the concept of the Minister of Law and Human Rights regarding the Amount, Requirements and Procedures for granting tariffs of up to zero rupiahs or zero. percent.

Provision of Zero Rupiah PNBП Rates on Intellectual Property Services:

- 1) If DJKI needs to expand the provision of PNBП tariffs to zero rupiahs or zero percent, it is necessary to, first, identify:
 - a. Type of PNBП and the amount of the

tariff up to Rp. 0.00 (zero rupiahs) or 0% (zero percent);

- b. Certain considerations are to be subject to tariffs up to Rp. 0.00 (zero rupiah) or 0% (zero percent); (For example: organizing social, religious, state activities, poor students/students, MSMEs, or force majeure conditions)
- c. Requirements and procedures for imposing tariffs on types of PNBП.

The requirements and procedures for imposing tariffs take into account the convenience of Payer in obtaining these requirements. In addition, each of the requirements for each consideration is mentioned. Example: requirements for poor people, evidenced by a Certificate of Disability issued by the Village Head where they are domiciled; SMEs, evidenced by a certificate from the local Cooperatives and SMEs Office; Educational Institutions, evidenced by a request from the head of the relevant agency.

- 2) The provision of services with tariffs up to zero rupiah/percent is carried out through optimization of the DJKI budget. In implementing the realization achievement of PNBП DJKI has exceeded the target that has been set, for example in the second quarter, PNBП has reached one hundred percent, so PNBП of 0 Rupiah will be given to this type of service. e. g. brands, patents, industrial designs, etc.

B. Study on the Implications of the Implementation of the New System Aspects and Their Impacts

The mechanism for administering intellectual property such as trademarks, patents, copyrights, industrial designs, and geographical indications for the time of substantive examination of trademarks, in practice, exceeds the inspection time limit, which is more than 150 days so that legal certainty regarding trademark protection is not fast according to the time stipulated by Law no. 20 of 2016 is less than 12 months including the flow of the industrial design.

The procedure needs to be simplified, for example, it is not necessary to attach a power of attorney, official excerpts of priority evidence, and others. For example, the application for a mark is filed, the documents are checked for completeness,

39 "Zaenal Mustofa , Kementerian Keuangan Dalam Diskusi Publik Tanggal 6 Juli 2022 Secara Daring Di Badan Penelitian Dan Pengemban Hukum Dan HAM," n.d.

given a date of receipt, announced in the official news mark, if there is no further opposition to a substantive examination, and if there is no refusal, a certificate is given.⁴⁰

Business actors for other activities, namely activities that are scientific for education, business actors with elements of community service in doing business, Things that need to be regulated so that there is no interference with the Intellectual Property Rights of each business actor in the same field, aims to help poor but creative people, ordinary business actors, business actors facilitated by the government/regional government, people who have a business either trading goods or services in the non-formal sector, related to research activities, The purpose of other activities may be outside the product and service sector maybe it means for charity humanitarian activities, farmer groups, fishermen and the like.

Analysis of the impact of the imposition of types and tariffs on Zero IDR PNPB for all types of Intellectual Property services. Encouraging local business actors, especially MSMEs to flock to protect their Intellectual Property Law products so that they can increase the economic income of the Indonesian people, encourage SME and economic growth so that they are not discriminatory but on the other hand are not selective from economies of scale. There is an increase in demand and there will be an increase in services if it is supported by state funding subsidies for this implementation.⁴¹

A negative impact Will make business actors less appreciative of Intellectual Property Rights and accordingly will have an impact on the quality of Intellectual Property Rights management services as well, and subsequently may reduce state revenue., This situation does not always have a good impact, depending on the type of intellectual property. If a patent is given a zero Rupiah PNPB, the party registering the Patent may not change much because the soul and knowledge of an inventor are low. For Marks, there may be more Mark registrations, but if they are not supported by an adequate number of examiners, the original trademarks will be registered or even rejected, and it is feared that there will be service problems.

Need an expert team to check industrial design brand patents. Not just approval via the application only. And it will be a big loss of job opportunities within the DJKI and HKI consultants. Licensing is important in the study according to the expertise of the field of study and expertise is not cheap and needs to be appreciated. Intellectual property services, including applications for registration and recording, will be carried out without consideration because they feel that the wrong application will not cause any harm.

The first- to- file system is messed up. So far, the improvement in increase does not automatically increase the quality of service. The public will judge that IP and IP Consultants are not too valuable and will certainly cause the PNPB of the Ministry of Law and Human Rights, especially DJKI, to decrease.

There needs to be an indicator of consideration for the provision of zero IDR PNPB with provisions on criteria for parties who can get PNPB exemption of zero Rupiah. If it brings impacts to economic recovery and encourages innovation because it will bring innovation, the it meets competency standards equivalent to other new inventions in the world. Therefore, it is advisable to provide a more detailed explanation of the indicators for considering the provision of PNPB of zero rupiah for local applicants.

There need to be indicators, for example, poor and incapable, as evidenced by a certificate of incapacity. Or educational and research institutions, such as a letter that has been determined for MSMEs. Based on experience in other countries, no country thinks in that direction. Just providing PNPB zero rupiah will not make DJKI the best IP office in the world. Indicators as the basis for approving and rejecting applications are limited to poor people as evidenced by a certificate of incapacity. Or educational and research institutions.

The Law on Intellectual Property Rights is objective in assessing and deciding an examination. Income, for poor people, as evidenced by a certificate of incapacity, educational and research institutions as evidenced by a letter of assignment from the institution, and others.

To limit the application quota in the determination of zero Rupiah PNPB: Which application will receive the facility, clearly considering the qualifications and conditions,

40 Undang-Undang Nomor 9 Tahun 2018 Tentang Penerimaan Negara Bukan Pajak.

41 “Suyut Margono Dalam Diskusi Publik Tanggal 30 Juni 2022 Secara Daring Di Badan Penelitian Dan Pengemban HUKum Dan HAM.”

and being selective about who will receive the facility. No need for the public, only research, and educational institutions. Even if you want it to be realized, there should be a certain specificity for those who will get it. In addition, in general, it is necessary to consider such as facilities, quality of service, quality of work results, speed and accuracy of inspection, and others.

Given for special/special cases, are not based on national/international holidays However, it is necessary to consider the achievement of PNBP realization of the Directorate General of Intellectual Property.⁴² The number of PNBP targets has been required by the state but depends on the number or quantity of registrations, submissions, and recordings. There should be an achievement target not only from the number but also the satisfaction of related parties such as the community and consultants.

In implementing the realization achievement of PNBP, DJKI has exceeded the target that has been set, for example in the second quarter PNBP has reached one hundred percent, so PNBP of 0 Rupiah will be given to this type of service. E. g. brands, patents, industrial designs, etc.

This study also uses a SWOT analysis to find out the extent of strengths and weaknesses and opportunities in the implementation.⁴³ As in analyzing the application of tariffs for the type of PNBP of Zero Rupiah as follows:⁴⁴

1. Strengths: to encourage local business actors, especially MSMEs to protect their intellectual property rights; increase the economic income and growth of MSMEs. there is an increase in requests and there will be an increase in service
2. Weaknesses: Still need a team of experts to check patents, brands, and industrial designs not just approval via applications; Licensing is important in its review

42 Ibid.

43 Benzaghta et al., "SWOT Analysis Applications: An Integrative Literature Review."

44 "Results of the Public Discussion, Dated July 6, 2022 Online at the Legal and Human Rights Research and Development Agency with the Ministry of Finance, the Ministry of Cooperatives and MSMEs, Intellectual Property Consultants, Intellectual Property Right,."

according to field expertise and expertise through an Intellectual Property consultant; The first-to-file system gets messed up if it's widely open; the public will judge that IP and IP consultants are not too valuable and the PNBP revenue of the Ministry of Law and Human Rights will decrease.

3. Opportunities, It is necessary to consider the achievement of PNBP realization of the Directorate General of Intellectual Property; There needs to be an indicator of consideration for the provision of 0 Rupiah PNPB; It is necessary to determine the criteria for parties who can get exemption from PNBP of 0 rupiah; Most agree that 0 rupiah PNBP is given to local MSME business actors, Communal Intellectual Property services, and research institutes or universities, while for the general public and foreign applicants, they charge PNBP.
4. Threats can reduce state revenue; Will have an impact on the quality of Intellectual Property Rights management services; It will make business actors less appreciative of Intellectual Property Rights.

CONCLUSION

The Analysis of policy of the Provision of Zero Rupiah PNBP Tariffs for Intellectual Property Rights is carried out by DJKI as a form of concern and partisanship of DJKI in supporting national economic growth and providing legal certainty to business actors regarding the types of intellectual property products/services they produce. It is expected that the enactment of this policy can move the wheels of the economy in Indonesia, and also increase public enthusiasm for registering intellectual property at the DJKI. To support national economic growth, especially during the Covid-19 pandemic, DJKI took the initiative to establish a policy by providing tariff reductions for intellectual property services. As for the reduction of the zero rates of the Rupiah. This tariff reduction is applied to certain activities such as the Birthday of the Ministry of Law and Human Rights (HDKD), World Intellectual Property Day (World IP Day), Independence Day of the Republic of Indonesia, as well as other major holidays within the Ministry of Law and Human Rights. In addition to the DJKI environment, the implementation of the policy of providing exemption of zero Rupiah tariff can also be carried out by other Ministries/Institutions

that play an active role in promoting intellectual property in Indonesia such as the Ministry of Cooperatives and SMEs, the Ministry of Industry, the Ministry of Trade, the Ministry of Tourism and Creative Economy and the Coordinating Ministry for Maritime Affairs and Investments by submitting an application that is equipped with supporting data relating to the activities requested is submitted by the activities that support the DKI program, and/or sees the realization of DJKI's PNBP achievements in the current fiscal year.

SUGGESTION

Based on the urgency and considerations as well as approval from the Ministry of Finance, as regulated in Government Regulation Number 28 of 2019 concerning Types and Tariffs on Types of Non-Tax State Revenues applicable to the Ministry of Law and Human Rights, as an effort to implement the policy, it is necessary to a legal basis is drawn up in the form of a Regulation of the Minister of Law and Human Rights concerning the Amount, Requirements, and Procedures for Imposition of Zero Rupiah Non-Tax State Revenue Tariffs in the Directorate General of Intellectual Property with certain conditions.

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