

TAXES ON THE EXTRACTION AND USE OF GROUND WATER AND SURFACE WATER (Regional Regulation of the Special Capital Province of Jakarta No.1/2004 dated March 10, 2004)

THE GOVERNOR OF
THE SPECIAL CAPITAL PROVINCE OF JAKARTA,

ute Book of 2000 No.246, Supplement to Statute Book
No.4048);

Considering:

- a. that the use of ground water and surface water in the Special Capital Province of Jakarta is provided for in Regional Regulation of the Special Capital Province of Jakarta No.10/1998;
- b. that following the enactment of Law No.34/2000 on Amendment to Law No.18/1997 on Regional Taxes and Levies, and of Government Regulation No. 65/2001 on Regional Taxes, provisions on taxes on the use of ground water and surface water in the Special Capital Province of Jakarta have been revised;
- c. that taxes on the use of ground water and surface water are not merely meant to raise local income but more importantly, they are designed to conserve the environment and maintain the ecosystem due to the use of ground water and surface water;
- d. that in conjunction with the matters in letters a, b and c, to lay legal foundation for the collection of taxes on the use of ground water and surface water, it is necessary to restipulate provisions on the use of ground water and surface water by means of regional regulation;

4. Law No.23/1997 on Environmental Management (Statute Book of 1997 No.58, Supplement to Statute Book No.3699);
5. Law No.22/1999 on Regional Government (Statute Book of 1999 No.60, Supplement to Statute Book No.3839);
6. Law No.25/1999 on the Financial Sharing between the Central Government and Regional Governments (Statute Book of 1999 No.72, Supplement to Statute Book No.3848);
7. Law No.34/1999 on the Government of the Special Capital Province of Jakarta (Statute Book of 1999 No.146, Supplement to Statute Book No.3878);
8. Government Regulation No.65/2001 on Regional Taxes (Statute Book of 2001 No.118, Supplement to Statute Book No.4138);
9. Regional Regulation of the Special Capital Province of Jakarta No.3/2001 on the Organisational Structure and Work Mechanism of Regional Apparatuses and Secretariat of the Legislative Council of the Special Capital Province of Jakarta (Regional Gazette of the Special Capital Province of Jakarta of 2001 No.66);
10. Regional Regulation of the Special Capital Province of Jakarta No. 4/2002 on General Provisions on Regional Taxes (Regional Gazette of the Special Capital Province of Jakarta of 2002 No.75);

In view of:

1. Law No.11/1967 on the Principles of Mining (Statute Book of 1967 No.22, Supplement to Statute Book No. 2831);
2. Law No.11/1974 on Irrigation (Statute Book of 1974 No.65, Supplement to Statute Book No.3037);
3. Law No.18/1997 on Regional Taxes and Levies (Statute Book of 1997 No.41, Supplement to Statute Book No. 3685) as has been amended by Law No.34/2000 (Stat-

By the approval of
THE LEGISLATIVE COUNCIL OF
THE SPECIAL CAPITAL PROVINCE OF JAKARTA

DECIDES :

To stipulate:

REGIONAL REGULATION OF THE SPECIAL CAPITAL PROVINCE OF JAKARTA ON TAXES ON THE EXTRACTION AND USE OF GROUND WATER AND SURFACE WATER.

CHAPTER I GENERAL PROVISIONS

Article 1

Hereinafter referred to as:

1. The Region is the Special Capital Province of Jakarta.
2. The Regional Government is the Government of the Special Capital Province of Jakarta.
3. The Governor is the Governor of the Special Capital Province of Jakarta.
4. The Regional Income Office is the Regional Income Office of the Special Capital Province of Jakarta.
5. Bodies are groups of persons and/or capital that constitute units, either those that run business or those that do not run business, including limited liability company, limited partnership, other partnership, state-owned company/regional government-owned company in any name and form, firm, cooperative, pension fund, federation, association, foundation, mass organisation, socio-political organisation or the like, institute, permanent establishment, and other bodies.
6. Ground water is water that is found under the ground, including spring that emerges naturally to the surface.
7. Surface water shall be water that is found in the surface, excluding sea water.
8. The extraction and use of ground water and surface water is the extraction and use of ground water and surface water by individuals or bodies to meet various needs of companies, offices and households.
9. Taxes on the extraction and use of ground water and surface water are taxes on the extraction, use, and extraction and use of ground water and/or surface water in the interests of individuals or bodies.

CHAPTER II

NAME, OBJECT AND SUBJECT OF TAXES

Article 2

Taxes called taxes on the extraction and use of ground water and surface water shall be imposed on the extraction, use, and extraction and use of ground water and/or surface water.

Article 3

- (1) The objects of taxes on the extraction and use of ground water and surface water shall be:
 - a. the extraction of ground water and/or surface water;
 - b. the use of ground water and/or surface water;
 - c. the extraction and use of ground water and/or surface water.
- (2) Excepted from the objects of taxes on the extraction and use of ground water and surface water shall be:
 - a. the extraction, use, or extraction and use of ground water and/or surface water by the Central Government and the Regional Government;
 - b. the extraction, use, or extraction and use of surface water by state-owned company and regional government-owned company specially established to exploit and manage water sources;
 - c. the extraction, use, or extraction and use of ground water and/or surface water for smallholder irrigation;
 - d. the extraction, use, extraction and use of ground water and/or surface water for the basic needs of households and places of worship;
 - e. the extraction, use, or extraction and use of ground water and/or surface water in the interests of the Fire Department;
 - f. the extraction, use, extraction and use of ground water and/or surface water for smallholder fish ponds.

Article 4

- (1) The subjects of the extraction and use of ground water and surface water shall be individuals and bodies that extract, use, or extract and use ground water and/or surface water.
- (2) The payers of taxes on the extraction and use of ground water and surface water shall be individuals and bodies that extract, use, or extract and use ground water and/or surface water

CHAPTER III

TAX BASE, TARIFFS AND CALCULATION METHOD

Article 5

- (1) The tax base for the extraction and use of ground water and surface water shall be the acquisition value of water.
- (2) The acquisition value of water as meant in paragraph (1) shall be expressed in the rupiah counted according to some or all of the factors as follows:
 - a. the type of water source;
 - b. the location of water source;
 - c. the aim of extracting and/or using water;
 - d. the volume of water extracted, used, or extracted and used;
 - e. the quality of water;
 - f. the size of place for extracting and/or using water;
 - g. the season of the extraction, use, or extraction and use of water;
 - h. the level of environmental damage caused by the extraction, use, or extraction and use of water.
- (3) The acquisition value of water as meant in paragraph (1), as long as the water is used for the activities of state-owned companies and regional government-owned companies serving public interests, and engaged in natural oil and gas mining businesses, shall be set by the Governor by observing the advice of the Minister of Home Affairs.
- (4) The acquisition value of water as meant in paragraph (1) and paragraph (2) shall be set by means of a gubernatorial decision.
- (5) As part of environmental management efforts, the acquisition value of water shall be set as follows:
 - a. the acquisition value of water for the areas that have been reached by the Regional Drinking Water Company (PDAM) shall be higher than the tariff imposed by the Regional Drinking Water Company,
 - b. where the extraction and use of ground water and surface water with a bigger multiple in the use of water is concerned, the basic price of water will be higher.

Article 6

The tariff of taxes on the extraction and use of ground water and surface water shall be set as follows:

- a. ground water at 20% (twenty percent);
- b. surface water at 10% (ten percent).

Article 7

The principal of taxes on the extraction and use of ground water and surface water which become due shall be counted by multiplying the tariff as meant in Article 6 and the tax base as meant in Article 5.

CHAPTER IV

TAX PERIOD AND MOMENT OF TAX DUE

Article 8

- (1) The tax period shall be a period of time that is equal to 1 (one) calendar month or is the same as a period of time specified by a gubernatorial decision.
- (2) Part of a month shall be rounded up to 1 (one) month.

Article 9

Taxes on the extraction and use of ground water and surface water shall become due at the moment of:

- a. extracting ground water and/or surface water; or
- b. using ground water and/or surface water; or
- c. extracting and using ground water and/or surface water.

CHAPTER V

OTHER PROVISIONS

Article 10

The formal provisions needed to collect taxes on the extraction of ground water and surface water shall follow Regional Regulation of the Special Province of Jakarta No.4/2002 on General Provisions on Regional Taxes.

CHAPTER VI

TRANSITIONAL PROVISIONS

Article 11

- (1) Taxes on the extraction and use of ground water and surface water which became due before the enforcement of this Regional Regulation shall remain subject to Regional Regulation of the Special Capital Province of Jakarta No.10/1998 on taxes on the use of ground water and surface water.
- (2) As long as the provisions needed to implement this Regional Regulation have not been issued, the existing provisions shall remain valid provided they do not contradict this Regional Regulation.

CHAPTER VII

CONCLUSION

Article 12

Provisions needed to implement this Regional Regulation shall be provided for in the gubernatorial decision.

Article 13

When this Regional Regulation takes effect, Article 1 letters d, l, ac, ad, ae, af, ag, ah, ai, aj, ak, al, am, an and ap, Article 21, Article 22, Article 23, Article 24, Article 25, Article 26, Article 27, Article 28, Article 29, Article 30, Article 31, Article 32, Article 34, Article 35, Article 36, Article 37, Article 38, Article 39, Article 40, Article 41, Article 42, Article 43, Article 44, Article 45, Article 46, Article 47, Article 48, Article 49, Article 50, Article 51, Article 52, Article 53, Article 55, Article 56, and Article 57 of Regional Regulation of the Special Capital Province of Jakarta No.10/1998 on taxes on the use of ground water and surface water shall be declared null and void.

Article 14

This Regional Regulation shall take effect as from the date of stipulation.

For public cognizance, this Regional Regulation shall be publicized by placing it in the Regional Gazette of the Special Capital Province of Jakarta.

Stipulated in Jakarta
on March 10, 2004

THE GOVERNOR OF
THE SPECIAL CAPITAL PROVINCE OF JAKARTA,
sgd.
S U T I Y O S O

Promulgated in Jakarta
on March 16, 2004

THE REGIONAL SECRETARY OF
THE SPECIAL CAPITAL PROVINCE OF JAKARTA,
sgd.

H. RITOLA TASMAYA

REGIONAL GAZETTE OF THE SPECIAL CAPITAL PROVINCE
OF JAKARTA OF 2004 NO.25

E L U C I D A T I O N
OF
REGIONAL REGULATION OF THE SPECIAL CAPITAL
PROVINCE OF JAKARTA
NO.1/2004
ON

Business News 7065/28-5-2004

TAXES ON THE EXTRACTION AND USE OF GROUND WATER AND SURFACE WATER

I. GENERAL

This Regional Regulation is the other provisions on taxes on the use of ground water and surface water as specified in Regional Regulation of the Special Capital Province of Jakarta No.10/1998 on taxes on the use of ground water and surface water.

The other provisions on the use of ground water and surface water specified in this Regional Regulation are aimed not only at raising regional revenues from taxes on the use of ground water and surface water but also at controlling the environment to maintain the ecosystem and finance the running of government and the implementation of development program. In addition, they are also meant to adjust to Law No.34/2000 on Amendment to Law No.18/1997 on Regional Taxes and Levies, and Government Regulation No.65/2001 on Regional Taxes.

Given the Regional Regulation of the Special Capital Province of Jakarta on General Provisions on Regional Taxes (KUPD) applicable to all types of regional taxes, the formal provisions containing procedures for collecting taxes on the use of ground water and surface water according to this Regional Regulation follow provisions specified in the Regional Regulation on General Provisions on Regional Taxes, except where this Regional Regulation otherwise stipulates.

Hence, this Regional Regulation contains material provisions covering tax objects and subjects, tax tariffs, tax base and tax calculation method, as well as tax period and moment of tax due.

II. ARTICLE BY ARTICLE

Article 1 and 2
Sufficiently clear

Article 3
Paragraph (1)
letter a

The extraction of ground water and/or surface water referred to herein includes the extraction of water in the oil and gas mining sector.

letter b

The use of ground water and/or surface water referred to herein includes the use of water for generators.
letter c

Sufficiently clear

Paragraph

Paragraph (2)

letter a

Excluded from those excepted as the objects of taxes on the extraction and use of ground water and surface water is the extraction, use, or extraction and use of ground water and/or surface water by state-owned companies and regional government-owned companies.

letter b

Sufficiently clear

letter c

The exception of the objects of taxes on the extraction or use of ground water and/or surface water for smallholder irrigation must always consider the conservation of the environment.

letter d

The exception of the objects of taxes on the extraction or use of ground water and/or surface water for the basic needs of households is meant to see if the water is really used for the basic needs of households and places of worship; excluding rented houses.

Only the rented houses which use more than 50 m3 of water per month are subject to taxes on ground water and surface water.

letter e

Sufficiently clear

letter f

Referred to as the exception to the extraction, use, or extraction and use of ground water and surface water for smallholder fish ponds is the exception of the objects of taxes on the extraction or use of ground water and/or surface water for smallholder fish ponds, excluding large-scale fish ponds run by bodies.

Article 4

Sufficiently clear

Article 5

Paragraph (1)

Sufficiently clear

Paragraph (2)

letter a

Sufficiently clear

letter b

The definition of the location of water source includes the depth of water source aquifer tapped.

letter c

Sufficiently clear

letter d

Referred to as the volume of water extracted is the volume of water counted in 1 (one) month concerned based on the water machine, discharge measuring instrument or other measuring instruments.

letter e and letter f

Sufficiently clear

letter g

Referred to as the season of the extraction, use, or extraction and use of water is the dry season or the rainy season.

letter h

Sufficiently clear

Paragraph (3) up to Paragraph (5)

Sufficiently clear

Article 6

Sufficiently clear

Article 7

Paragraph (1)

Following is the example of how to count tax principal.

Taxpayer XX is known to have used 2,400 m3 of ground water. Based on the figure taxpayer XX belongs to the group of large-scale business, namely one, two, or three star-rated hotel reached by the Regional Drinking Water Company (PDAM). The amount of taxes on the extraction and use of ground water and surface water can be calculated as follows:

$$\begin{aligned}
\text{Tax on ground water} &= f \times \text{NPA} \\
&= f \times (\text{NPA} = (\text{Q}(\text{m}^3) \times \text{fn water} \times \text{HDA})) \\
&= 20\% \times (\text{NPA} = (2,400 \times 6 \times \text{Rp}2,750)) \\
&= 20\% \times \text{Rp}39,600,000 \\
&= 7,920,000
\end{aligned}$$

Tax on surface water = f x NPA

$$\begin{aligned}
&= f \times (\text{NPA} = (\text{Q}(\text{m}^3) \times \text{fn water} \times \text{HDA})) \\
&= 10\% \times (\text{NPA} = (900 \times 6 \times \text{Rp}2,500)) \\
&= 10\% \times \text{Rp}13,500,000 \\
&= \text{Rp}1,350,000
\end{aligned}$$

Article 8 up to Article 14

Sufficiently clear.

---==(S)===---