

Reorientation Of Mayor Regulation Number 28 Of 2024 For Taxpayers In Medan City

Bayu Widiyanto¹, Chely Br Sembiring², Hendri Yohannes³

^{1,2,3}Fakultas Hukum Universitas Prima Indonesia, Medan

bayuwidiyanto@unprimdn.ac.id, chely.f.sembiring@gmail.com,
sir.hendriyohannes@gmail.com

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Abstract

*The principle of legal certainty and legality of tax collection is an important principle in a state of law as stated in the 1945 Constitution that Indonesia is a state of law and a tax cannot be collected without being regulated by law. The Mayor's Regulation is an implementing regulation that has binding legal force which is ordered by higher legislation or formed based on authority. The position of the Medan Mayor's Regulation Number 28 of 2024 raises a legal event. This study will critically examine and analyze, and normatively regarding the Mayor's Regulation based on the perspective of comparative law theory both from the decision of the constitutional court, the formation of regional legal products and relevant laws and enforcing the law in implementing it for taxpayers. This study aims to determine whether the formation of the Mayor's Regulation is in accordance with the authority and ordered by the Legislation and the validity of the law in implementing the Mayor's Regulation. The results of the study found that the Mayor's Regulation is an implementing regulation that does not have the authority to add non-normative substance, the Mayor's Regulation only has the authority to regulate administrative procedures. Officials who should not implement the Mayor's Regulation, if it conflicts with higher regulations based on the principle of *lex superior derogat legi inferiori*, in carrying out their duties and responsibilities must comply with the Laws and Regulations.*

I. Introduction

Taxes are one of the sources of income in a country and a contribution from citizens to the state. The purpose of tax collection is for infrastructure development and the welfare of the domestic community, and inflation control. Tax is a forced collection collected by the state to a person or entity regulated by law. In tax collection, it must be based on the principles of legal certainty and legality. In the formulation of tax provisions, they are placed and regulated in the constitution of a country. For example, the United States of America *"The Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States"*.¹ And the State of Netherland *"The principle of legality has special force in Dutch tax law. This rule of law requirement of general legislation, an important safeguard against arbitrary interferences with individual rights and liberties by the public authorities, is of special importance in tax law. The levying of taxes, therefore, is governed by specific constitutional rules"*.² That at the international level, on the principle of legality of taxation, it is regulated in Article 1 of the protection of property protocol of the Convention for the Protection of Human Rights and Fundamental Freedoms: *"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law"*.³

In line with the formulation of tax provisions in Indonesia, it is regulated in the constitution as stipulated in the Constitution of the Republic of Indonesia in 1945 Article 1 paragraph (3), which is the State of Indonesia is a state of law.⁴ The 1945 Indonesian Republik State Constitution Article 23A, is a compulsory tax and other levy for state purposes regulated by law.⁵ It is very clear that tax collection, which is a compulsory nature, is regulated by law, while the position of the Mayor's regulation as a law has a lot of debate. In essence, the Mayor's regulation is a regulation that is an implementation of a higher regulation that expressly receives an order to implement the provisions of laws and regulations. If analyzed normatively based on the hierarchy of laws and regulations, the Mayor's regulation is not mentioned in Article 7 paragraph (1) of Law Number 12 of 2011⁶, then Article 8 paragraph 1 that :

"Types of Laws and Regulations other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, the Supreme Court, the

¹ "constitution and notated," n.d., Article I, Section 8, Clause 1.

² Hans Gribnau And Sonja Dusarduijn, "Constitutional Taxation In The Netherlands," *Review Of International & European Economic Law* (2022): 173–75.

³ C. A. Hopkins, "European Convention on Human Rights," *The Cambridge Law Journal* 24, no. 1 (1966): 33–18.

⁴ "Constitution of the Republic of Indonesia" (1995): Art. 28J.

⁵ "Constitution of the Republic of Indonesia" (1995), art. 23A.

⁶ "Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations," *Statute Book of the Republic of Indonesia Number 82 of 2011* (2024): Art. 7 1.

Constitutional Court, the Examining Body, Ministers, agencies, institutions, or commissions at the same level established by Law or the Government by order of the Law, the Provincial Regional People's Representative Council, the Governor, the Regency/City Regional People's Representative Council, Regent/Mayor, Village Head or equivalent." ⁷

The Mayor's Regulation is not only an implementation of higher laws and regulations, but can include as laws and regulations as explained in Article 8 paragraph 2 that: "Laws and Regulations as referred to in paragraph (1) are recognized for their existence and have binding legal force as long as they are ordered by higher laws and regulations or are formed based on the authority of." ⁸

The Mayor's Regulation is also part of the legislation on the phrase "ordered by a higher Statute and formed based on authority", potentially causing confusion in meaning. In line with Ubaiyana and Mar'atun Fitriah said that not only because of higher legislative orders, ministerial regulations based on Law No. 12 of 2011 which was formed based on authority are also part of the laws and regulations. The phrase "formed based on authority" in Article aquo, has the potential to cause confusion in meaning. ⁹ This research reveals that the regulatory position of institutions is not explicitly regulated in the law, thus creating ambiguity that has the potential to damage the existing hierarchy system.¹⁰ It is as if through the provisions of the Article, each institution mentioned, is given by attribution the authority to form laws and regulations, without the existence of a law.

When in the formation of the Mayor Regulation applies based on authority to add normative substance regulating human rights and the rights and obligations of citizens, it will become an increasingly complicated problem that can be interpreted as the executive institution can make laws and regulations and the executive institution implements the laws and regulations without the approval of the legislative institution. In this case, it can make the executive institution act "Abuse of Power". Based on this description, this is the basis for the researcher's interest in studying the Reorientation of the Mayor Regulation of Medan Number 28 of 2024, focusing on the formulation of the problem, namely: First, "Analysis of the position of the Mayor Regulation in the legal system of the State of Indonesia". Second, "Reorientation of Medan Mayor Regulation Number 28 of 2024. Third, "Legal Implications of the implementation of Medan Mayor Regulation Number 28 of 2024".

2. Research Method

This study includes a normative-empirical legal research method that refers to the study of

⁷ "Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations" Statute Book of the Republic of Indonesia Number 82 of 2011 (2024): Art. 8 1.

⁸ "Undang-Undang Republik Indonesia Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan" Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82 (2024): Art. 8 2.

⁹ Ubaiyana and Mar'atun Fitriah, "The Position of Ministerial Regulations as Part of Laws and Regulations Based on Law 12/2011," *Mimbar Hukum* 33, no. 2 (2021): 601–3.

¹⁰ Ihsanul Maarif, "Dynamics of the Position of Institutional Regulations in the Legislative Hierarchy: A Juridical Review and Practical Perspective" 7, no. 1 (2024): 339–4.

normative data synchronized with empirical data. Normative-empirical legal research is "legal research that examines the law as a rule or norm and the application of legal rules in practice in society".¹¹ Normative-empirical legal research is legal research based on legal research that not only examines the norm system in laws and regulations, but also observes the reactions and interactions that occur when the norm system works or is applied in society as the object of study.¹² The legal materials used in this study are primary legal materials including data obtained from sources or from social media, secondary legal materials include materials that provide explanations about premier legal materials. The nature of the research analysis is prescriptive, namely to provide arguments for the results of the research conducted.

3. Results and Discussion

Analysis of the Position of Mayor Regulations in the Indonesian State Legal System

In the vision of government based on this constitutional system, the authority of the Government and all its actions in carrying out its duties are limited by the existence of the country's constitution.¹³ Based on this description, we can find 9 (nine) items of content material in the Law, namely:

1. which is strictly ordered by the Constitution and the Decree of the People's Consultative Assembly;
2. which further regulates the provisions of the Constitution;
3. who regulates human rights;
4. which regulates the rights and obligations of citizens;
5. which regulates the division of state power;
6. who regulates State Organizations/Institutions;
7. which regulates the division of the country's territory/region;
8. who regulates who is a citizen and how to obtain/lose citizenship;
9. which is stated by a Law to be regulated by Law.¹⁴

Normative content or substance that expressly regulates the rights and obligations of citizens and regulates human rights is required to be contained in the Law. Because the law requires approval from the House of Representatives. In the formation of mayoral regulations, it is regulated in the Regulation of the Minister of Home Affairs Number 120 of 2018 Article 42 paragraph 1:

"The Regional Head determines the Perkada based on the order of higher laws and regulations or is formed based on authority."¹⁵

Based on Law No. 6 of 2023 Article 176 which amends Law No. 23 of 2014 concerning

¹¹ Masfi Sya'fiatul Ummah, *Legal Research Methods*, Mataram University Press, vol. 1 (Mataram University Press, 2020).

¹² M.H. Dr. Wiwik Sri Widiarty, S.H., *Textbook On Legal Research Methods* (Publika Global Media, 2024).

¹³ SH. MH Dr. Gazali, *Introduction to Legal Science*, ed. Dr. Bahtiar, vol. 1 (Sanabil, 2022).

¹⁴ Dr. Gazali.

¹⁵ "Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 120 of 2018 concerning Amendments to the Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Establishment of Regional Legal Products," *State Gazette of the Republic of Indonesia Number 157 of 2019* (2016): Art. 42 1.

Regional Government as amended several times, most recently by Law No. 9 of 2015 in Article 16 paragraph 4 has very clearly regulated that the Central Government can delegate regulations for the implementation of norms, standards, and procedures to Regional Heads with Regional Head Regulations.¹⁶ Instead of adding normative substance as well as regulated in Law No. 9 of 2015 article 65 paragraphs 1 and 2, Regional Heads have the task of compiling and submitting draft Regional Regulations to the DPRD and carrying out other duties in accordance with laws and regulations, in carrying out their duties, Regional Heads have the authority to determine PERDA that has been approved by the DPRD, determine Regional Heads and Decrees and carry out other authorities in accordance with Provisions Of Laws And Regulations.”¹⁷

This is stated in Law 23 of 2014 concerning Regional Government as amended by Law No. 9 of 2015 concerning the Second Amendment to Law No. 23 of 2014 concerning Regional Government Article 246 paragraph (1) which states that to implement the Regional Regulation or on the authority of laws and regulations, the regional head stipulates the Perkada.¹⁸ The Mayor's Regulation which is generally referred to as PERKADA (Regional Head Regulation) which is an implementing regulation to carry out orders on the rules of laws and regulations that are not allowed to add normative substance that has elements of content material that regulate the rights and obligations of citizens and regulate human rights as affirmed in article 246 paragraph 1 of Law No. 9 of 2015, and it has been affirmed the establishment of a mayoral regulation based on the order of higher laws and regulations in article 42 paragraph 1 of the Regulation of the Minister of Home Affairs Number 120 of 2018 and formed based on authority, the Regional Head can determine the PERDA that has received the approval of the DPRD and stipulate the PERKADA to implement the PERDA as stipulated in Article 65 paragraphs 1 and 2 of Law No. 9 of 2015. It should be understood that the process of forming a Regional Head Regulation (Perkada) is different from the process of forming a Regional Regulation (Perda), in the process of forming a Regional Regulation must be mutually agreed upon by the Regent/Mayor and the DPRD, while the Regional Head Regulation is the prerogative of the regional head completely without requiring the approval of the DPRD.¹⁹ Likewise, it has been affirmed by the Constitutional Court Number 63/PUU-XV/2017 part 3.12 p.133-134 regarding implementing regulations to implement laws and regulations, Delegation of authority that regulates administrative technical matters does not give authority to make arrangements containing content material that should be contained in higher regulations.²⁰

Reorientation of Medan Mayor Regulation Number 28 of 2024

Medan Mayor Regulation Number 28 of 2024 is an implementing regulation that implements

¹⁶ "Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law," *Statute Book of the Republic of Indonesia Number 238 of 2022* (2022): Art.16 4.

¹⁷ "Undang-Undang Republik Indonesia Nomor 9 Tahun 2015 Tentang Perubahan Kedua Atas Undang-Undang Nomor 23 Tahun 2014 Tentang Pemerintahan Daerah," *Lembaran Negara Republik Indonesia Tahun 2015 Nomor 58*, 2015, Art. 65 1 dan 2.

¹⁸ Kukuh Sudarmanto et al., "Implications of Law Number 11 of 2020 concerning Job Creation on the Formation of Regional Legal Products," *USM Law Review Journal* Vol. 4, no. 23 (2021): 708–7.

¹⁹ Rustam, "Legal Analysis of the Determination of Regional Head Regulations Without Going Through the Facilitation Process," *JOURNAL OF COLLABORATIVE SCIENCE* 6, no. 12 (2023): 2094–2.

²⁰ "PUTUSAN MAHKAMAH KONSTITUSI No. 63/PUU-XV/2017" (2017): 133–14.

the PERDA or laws and regulations that receive delegates. The Mayor's Regulation contains regulations that contain content material that should be contained in higher regulations which are no longer in line with the purpose and purpose of the establishment of implementing regulations that should regulate administrative technical procedures, as affirmed by the Constitutional Court Number 63/PUU-XV/2017 part 3.12 p.133-134. The Articles in Mayor Regulation Number 28 of 2024 that are not in line with the purpose and purpose of the establishment of implementing regulations or are contrary to laws and regulations, namely:

1. Article 5 Paragraph 2

In this case, article 5 paragraph 2 of the mayor's regulation, has a meaning that if every PBJT taxpayer applies a discount to consumers, then the basis for imposing PBJT tax is the amount that should have been received before the discount or discount.²¹ For example, Mr. A, buying food and drinks at a café with billing details:

Table 1. Illustration of the Meaning of Medan Mayor Regulation Number 28 of 2024 in Article 5 Paragraph 2

Bread	Rp. 50.000,-
Drink	Rp. 50.000,-
Subtotal	IDR 100,000
Discount	Rp. 50.000,-
Total After Discount	Rp. 50.000,-
10% PBJT Tax	Rp. 10.000,-
Total Bill	Rp. 60.000,-

Meanwhile, in article 57 paragraph 1 of Law Number 1 of 2022 and Article 26 paragraph 1 of Regional Regulation Number 1 of 2024, it means that if every PBJT taxpayer applies a discount to consumers, then the basis for imposing PBJT tax is the amount of payment received by PBJT taxpayers or the amount paid by consumers to PBJT taxpayers.²²²³ For example, Mr. A, buying food and drinks at a café with billing details:

Table 2. Illustration of the Meaning of Law Number 1 of 2022 in Article 57 Paragraph 1 and Regional Regulation Number 1 of 2024 in Article 26 Paragraph 1

Bread	Rp. 50.000,-
Drink	Rp. 50.000,-

²¹ “Peraturan Walikota Nomor 28 Tahun 2024 Tentang Tata Cara Pemungutan Pajak Barang Dan Jasa Tertentu, Pajak Reklame, Pajak Air Tanah Dan Pajak Sarang Burung Walet,” *Berita Daerah Kota Medan Tahun 2024 Nomor 28*, 2024, Art. 5 2.

²² “Undang-Undang Republik Indonesia Nomor 1 Tahun 2022 Tentang Hubungan Keuangan Antara Pemerintah Pusat Dan Pemerintah Daerah,” *Lembaran Negara Republik Indonesia Tahun 2022 Nomor 4* (2022): Art. 57 1.

²³ “Peraturan Daerah Nomor 1 Tahun 2024 Tentang Pajak Daerah Dan Retribusi Daerah,” *Lembaran Daerah Kota Medan Tahun 2024 Nomor 1* (2024): Art. 26 1.

Subtotal	IDR 100,000
Discount	Rp. 50.000,-
Total After Discount	Rp. 50.000,-
10% PBJT Tax	Rp. 5.000,-
Total Bill	Rp. 55.000,-

The substance in Article 5 paragraph 2 of the Regulation of the Mayor of Medan number 28 of 2024, is contrary to the laws and regulations and can be said to have exceeded the authority that should have been in issuing implementing regulations as affirmed in the decision of the Constitutional Court number 63/PUU-XV/2017 part 3.12 p.133-134.

In this case, the formulation in making implementing regulations that are contrary to the purpose and purpose of laws and regulations can have a negative impact on Regional Revenue, the potential for abuse of power by public officials and the negative impact of taxpayers who are not familiar with the law. If a public official implements Article 5 paragraph 2 to a legal layman, when a lawful taxpayer is powerless and unable to make the payment of the tax, then a room for negotiation is created, the Public Officer will use article 57 paragraph 1 of Law Number 1 of 2022 and Article 26 paragraph 1 of Regional Regulation Number 1 of 2024. Public officials have a surplus of power, when the surplus power is coupled with implementing regulations that are contrary to laws and regulations, then the surplus of power can cause abuse of power for personal gain or personal interests. On the one hand, state officials have duties and obligations attached to them to administer the government as a public service which in turn is for the welfare of the people. On the other hand, there is an abuse of power by state officials for their own interests, which of course harms the state's finances.²⁴

2. Article 5 Paragraph 4

In the case of PBJT for parking services, in the basic application of the imposition of PBJT tax, there is a difference with the basic application of the imposition of PBJT for food and/or beverages, electric power, hospitality services, and arts and entertainment services. As stipulated in article 19 paragraph 1 of Government Regulation Number 35 of 2023, the basis for imposing PBJT on food and/or beverages, electric power, hospitality services, and arts and entertainment services is based on the amount of payment received by taxpayers or the amount of payments paid by consumers to taxpayers.²⁵ However, regarding the PBJT parking services as regulated in Article 19 paragraph 4 of Government Regulation Number 35 of 2023, local governments are given the authority to establish a policy in terms of controlling the use of private vehicles and congestion levels. With this authority, the local government can determine the basis for

²⁴ . Amalia Syauket, Rajanner P Simarmata, Cornelia Evelin Cabui, "Korupsi Kebijakan Pejabat Publik," *Jurnal Ilmu Pemerintahan* 10, no. 2 (2022):80-4.

²⁵ "Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah," *Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85* (2023): Art. 19 1.

imposing PBJT tax from the parking service tariff that was before being subject to a discount or discount.²⁶ Likewise, the formulation of the purpose and objectives in Regional Regulation Number 1 of 2024 article 26 paragraphs 1 and 4, is in line with the formulation of government regulation Number 35 of 2023 in article 19 paragraphs 1 and 4.²⁷²⁸ As an example of an illustration, Mr. A pays for parking at one of the Medan City Malls, the Medan City Regional Government determines the basis for the imposition of parking service PBJT tax from the parking service tariff before the discount with total details:

Table 3. Illustration of the Meaning of Regional Regulation Number 1 of 2024 Article 26 Paragraph 1 and Paragraph 4 of Government Regulation Number 35 of 2023 in Article 19 Paragraphs 1 and 44

Parking Service Rates	Rp. 50.000,-
Discounts / Discounts	Rp. 10.000,-
Sub Total	Rp. 40.000,-
Basis for imposition of tax	Rp. 50.000,-
10% Parking PBJT Rate	Rp. 5.000,-

The formulation of the implementing regulation Article 5 paragraph 4 of the Mayor of Medan Regulation Number 28 of 2024, has the meaning that the Medan City Government directly determines the basis for imposing PBJT on parking services²⁹ without considering the parking service tariff that is before the deduction or the amount of payment received by the parking service provider or can have the meaning that the Medan City Government indirectly determines the parking service tariff to the parking service provider. The formulation of the implementing regulation Article 5 paragraph 4 of the Mayor of Medan Regulation Number 28 of 2024 is very wrong and contrary to laws and regulations. Laws and regulations only give authority to the Regional Government to determine the basis for imposing PBJT tax on parking services equal to the parking service rate before deduction. Article 5 paragraph 4 has a negative impact on regional revenue, the potential for abuse of power by public officials and makes ordinary taxpayers confused by the law are required to follow laws and regulations or implementing regulations. With the presence of article 5 paragraph 4, if the parking service provider follows the set parking service rate, the substance already regulates the rights of citizens and is contrary to the purpose and purpose of laws and regulations, as is known the normative substance that regulates the rights of citizens regulated in the Law. When the parking service provider does not follow the

²⁶ “Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah” Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 19 4.

²⁷ “Peraturan Daerah Nomor 1 Tahun 2024 Tentang Pajak Daerah Dan Retribusi Daerah” Lembaran Daerah Kota Medan Tahun 2024 Nomor 1 (2024): Art. 26 1 dan 4.

²⁸ “Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah” Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 19 1 dan 4.

²⁹ “Peraturan Walikota Nomor 28 Tahun 2024 Tentang Tata Cara Pemungutan Pajak Barang Dan Jasa Tertentu, Pajak Reklame, Pajak Air Tanah Dan Pajak Sarang Burung Walet” Berita Daerah Kota Medan Tahun 2024 Nomor 28 (2024), Art. 5 4.

determination of the parking service tariff, but the parking service tariff is higher than the determination of the parking service tariff and public officials can abuse their power against legal ordinary taxpayers by applying in accordance with the laws and regulations of article 19 paragraph 1 part D of Government Regulation Number 35 of 2023 and Article 26 paragraph 1 part D, When ordinary taxpayers are helpless or unable to pay, a space for negotiating tax payments is created using Article 5 paragraph 4 of the Mayor of Medan Regulation Number 28 of 2024. The postulate from the official only follows the implementing regulations that have been passed. Officials who abuse power are oriented to their own interests and other networks that assist the official in carrying out his actions to achieve goals that are certainly not in line with the goals that have been prepared by the state.³⁰

3. Article 40 paragraph 4 and paragraph 5, Article 45 paragraph 3, Article 47 paragraph 1, and Article 49 paragraph 4 part c.

Bookkeeping and recording is a process in collecting financial data and information that aims to calculate tax payable. The formulation of the substance of Article 40 paragraphs 4 and 5, Article 45 paragraph 3, Article 47 paragraph 1, Article 49 paragraph 4 part c of the Mayor of Medan Regulation Number 28 of 2024 has the meaning of exemption from bookkeeping and recording.³¹ This meaning is contrary to the purpose and purpose of the laws and regulations of Government Regulation Number 35 of 2022 Article 67 paragraphs 1 to 5, The purpose and purpose of Article 67 paragraphs 1 to 5 has the purpose that every taxpayer is obliged to do bookkeeping or recording electronically or non-electronically, to be required to have a turnover of at least Rp. 4,800,000,000,- (four billion eight hundred million rupiah) per year and taxpayers are given the option to be required to do bookkeeping or recording if the turnover is less than Rp. 4,800,000,000,- (four billion eight hundred million rupiah) per year, Every taxpayer is required to keep books, records, and documents including the results of data processing from books managed electronically or online for a maximum of 5 (five) years, In this article, there is no formulation that taxpayers are allowed not to do bookkeeping or recording. The formulation of the substance of Article 40 Paragraph 4 and Paragraph 5, Article 45 Paragraph 3, Article 47 Paragraph 1, and Article 49 Paragraph 4 Part C of Medan Mayor Regulation Number 28 of 2024 has a negative impact on regional revenue, the potential for public officials to abuse power for personal gain and a negative impact on taxpayers. When taxpayers do not record or bookkeep, the basis of tax calculation cannot be known, it can create space for public officials to abuse power for personal gain, namely by providing studies and calculations of turnover that have no basis and do not have proof with a large turnover, with a large turnover, the taxpayer is unable to make tax payments, When taxpayers are unable to make payments, the negotiation room between taxpayers and public officials to agree on taxes to be paid to the regions.

³⁰ Ira Ardila et al., "Penyalahgunaan Kekuasaan Dalam Tindakan Korupsi Bantuan Sosial Oleh Pejabat Publik Perspektif Max Weber," *REFORMASI* 13, no. 2 (2023): 223–2.

³¹ "Peraturan Walikota Nomor 28 Tahun 2024 Tentang Tata Cara Pemungutan Pajak Barang Dan Jasa Tertentu, Pajak Reklame, Pajak Air Tanah Dan Pajak Sarang Burung Walet" Berita Daerah Kota Medan Tahun 2024 Nomor 28 (2024), art. 40 4 dan 5, art. 45 3, art. 47 1, art. 49 4 Bagian C.

³² From this negotiation room, the potential loss of regional revenue, potential losses and profits of taxpayers also have a great opportunity, and the most benefited are the public officials. The main problem that is often related to the ethics of government officials is that there are still officials who abuse power for personal interests.³³ The mayor's regulation is required to regulate business circulation limits or turnover that does not exceed Rp. 10,000,000 (ten million rupiah) per month is not a tax object, as stipulated in Article 20 Paragraph 2 Part A of Regional Regulation Number 1 of 2024.³⁴

4. Article 50 Paragraph 1

The formulation of article 50 paragraphs 1 and 2 of the Medan Mayor Regulation No. 28 of 2024, means that the Regional Government regulates the rights of citizens in issuing Sales Bonds (bill), in this case, the local government directly regulates general provisions instead of regulating administrative procedures. The implementing regulation should not contain normative substance that has the meaning of regulating the rights and obligations of citizens. In this article, there is no delegation from the laws and regulations to contain general provisions and Returning to the purpose and purpose of the formulation of implementing regulations, it only regulates administrative procedures as decided by the Constitutional Court with number 63/PUU-XV/2017 part 3.12 p.133-134.

5. Article 52 Paragraph 2

Medan Mayor Regulation Number 28 of 2024 accepts delegates from Government Regulation Number 35 of 2023 Article 69 paragraph 5 which means that the Mayor Regulation is given the authority to regulate the procedures for filling and submitting SPTPD for the type of district/city taxes collected by taxpayers such as BPHTB, PBJT for food and/or beverages, PBJT for Electricity, PBJT for Hospitality Services, PBJT for Parking Services, PBJT for Arts and Entertainment Services, MBLB Tax and Swallow's Nest Tax in terms of determining the tax period for each type of tax and the deadline for submitting SPTPD.³⁵

Likewise, the Mayor Regulation of Medan Number 28 of 2024 accepts delegates from Regional Regulation Number 1 of 2024 Article 97 paragraph 3 which means that the Mayor Regulation is given the authority to regulate the procedures for collecting taxes and Levies which include Registration and Data Collection, Determination of the Amount of Taxes and Levies Payable, Payment and Deposit, Reporting, Reduction,

³² “Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah” Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 67 1,2,3,4,5.

³³ Rahmadhona Fitri Helmi Fitri Hayani, Indah Oktavia, Rindu Oktavia, Septa Adri Fania, Yulia Hanoselina, “Analisis Permasalahan Etika Pejabat Pemerintahan Dari Perspektif Administrasi Publik,” *Jurnal Ilmu Hukum Dan Administrasi Negara* 2, no. 4 (2024): 260–62.

³⁴ “Peraturan Daerah Nomor 1 Tahun 2024 Tentang Pajak Daerah Dan Retribusi Daerah” Lembaran Daerah Kota Medan Tahun 2024 Nomor 1 (2024), Art. 20 2 Bagian A.

³⁵ “Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah” Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 69 5.

Correction and Cancellation of Stipulations, Tax Audit, Tax and Levy Collection, Objections, Lawsuits, Cancellation of Tax Receivables and Levies by the Mayor and Other Arrangements related to Tax and Levy Collection Procedures guided by laws and regulations.³⁶

For the substance of the Mayor of Medan Regulation Number 28 of 2024 article 62 paragraph 3 Parts C and F: "3. Examination for other purposes as intended in paragraph (1) includes the determination, matching, or collection of materials related to the purpose of the examination, including: temporary deactivation of NPWPD; Audits in the context of tax collection are carried out by taking data directly through guarding the taxpayer's place of business for a certain time." The formulation of substance in Article 62 paragraph 3 parts c and f of Medan Mayor Regulation Number 28 of 2024 is contrary to Government Regulation Number 35 of 2023 Article 73 paragraph 3 which adds normative substance or general provisions such as the temporary deactivation of NPWPD and adds the phrase "which is carried out by taking data directly through guarding the taxpayer's place of business for a certain time", This phrase is contrary to the tax audit procedural law and has the meaning of regulating the rights and obligations of taxpayers.³⁷

6. Article 72 Paragraph 2

Medan Mayor Regulation Number 28 of 2024 accepts delegates from Regional Regulation Number 1 of 2024 Article 97 paragraph 3 which means that the Mayor Regulation is given the authority to regulate the procedures for collecting taxes and Levies which include Registration and Data Collection, Determination of Outstanding Taxes and Levies, Payment and Deposit, Reporting, Deduction, Correction and Cancellation of Stipulations, Tax Audit, Tax and Levy Collection, Objections, Lawsuits, Cancellation of Tax Receivables and Levies by the Mayor and Other Arrangements related to Tax and Levy Collection Procedures guided by laws and regulations.³⁸ On the substance of the Regulation of the Mayor of Medan Number 28 of 2024 article 72 paragraph 2 which has the meaning that in terms of tax collection, the Head of Bapenda can issue a Third Warning Letter which is submitted to taxpayers or taxpayers directly and accompanied by an Act of Immediate and Simultaneous Collection Efforts and the installation of warning stickers, warning banners, warning boards, or the like.³⁹

The formulation of the substance in the Regulation of the Mayor of Medan Number 28 of 2024 Article 72 paragraph 2 on the phrase "Immediate and Simultaneous Collection

³⁶ "Peraturan Daerah Nomor 1 Tahun 2024 Tentang Pajak Daerah Dan Retribusi Daerah" Lembaran Daerah Kota Medan Tahun 2024 Nomor 1 (2024), Art. 97 3.

³⁷ "Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah" Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 73 3.

³⁸ "Peraturan Daerah Nomor 1 Tahun 2024 Tentang Pajak Daerah Dan Retribusi Daerah" Lembaran Daerah Kota Medan Tahun 2024 Nomor 1 (2024), Art. 97 3.

³⁹ "Peraturan Walikota Nomor 28 Tahun 2024 Tentang Tata Cara Pemungutan Pajak Barang Dan Jasa Tertentu, Pajak Reklame, Pajak Air Tanah Dan Pajak Sarang Burung Walet" Berita Daerah Kota Medan Tahun 2024 Nomor 28 (2024), Art. 72 2.

Efforts" cannot be carried out by the Bapenda Billing Team, but must be carried out by the Tax Bailiff from Bapenda based on the Instant and Lump Sum Billing Order and is required to meet the elements such as if it is known that the Taxpayer intends to leave Indonesia forever, If it is known that the Taxpayer moves the goods owned or controlled which have the purpose of reducing or stopping its business activities in Indonesia, if it is known that there are signs that the Taxpayer will dissolve its business entity, merge its business, expand its business, transfer the company owned or controlled or make other changes, if it is known that the Business Entity will be dissolved by the State, and if it is known that it has occurred confiscation of the taxpayer's goods by a third party or there are signs of bankruptcy. The phrase "Immediate and Simultaneous Collection Effort Action" in the formulation of the substance is not in line with and contrary to the purpose and purpose of Government Regulation Number 35 of 2023 Article 82.

Then on the phrase "Installation of warning stickers, warning banners, warning boards, or the like" in the formulation of the substance, there is an addition of normative substance in terms of Social Sanctions which regulate the rights and obligations of citizens and regulate human rights and are contrary to the purpose and objectives of Law of the Republic of Indonesia Number 1 of 2022 Article 103 paragraphs 1,2 and 3 which has the meaning that every official and expert appointed by the Regional Head is prohibited from notifying to other parties everything that is known or notified to him by the Taxpayer in the context of his position or work to carry out the provisions of laws and regulations in the field of Regional Taxation. The prohibition does not apply if, Officials and/or Experts appointed by the Regional Head act as witnesses or experts in court hearings and do not apply when, Officials and/or Experts appointed by the Regional Head to provide information to officials of state institutions or government agencies authorized to conduct examinations in the field of Regional Finance.

The formulation in article 72 paragraph 2, which should be "The Third Warning Letter must be submitted to the taxpayer or the Taxpayer directly." If the third warning letter is due and the taxpayer does not make payment, then the bailiff can escalate by issuing a Compulsory Letter. At the time the bailiff issues the Compulsory Letter, the bailiff cannot collect immediately and at once. Regarding the phrase "Instant and Lump Sum Billing" in article 72 paragraph 2, the bailiff can carry out by issuing a Compulsory Letter if the taxpayer meets one of the elements that have been regulated in the substance of Article 82 of Government Regulation Number 35 of 2022.

Likewise, the formulation in article 72 paragraph 2, on the phrase "installation of warning stickers, warning banners, or the like", which includes sanctions. The sanction has contradicted the purpose and objectives stipulated in Article 103 paragraphs 1, 2 and 3 of Law Number 1 of 2022 and in Article 101 paragraphs 1, 2, and 3 of Regional Regulation Number 1 of 2024. Which indirectly on the phrase and implemented has informed everything that is known to other parties who can see it directly. Taxpayer Rights is a matter that has a relationship with the recognition of human rights so it is very important to pay attention and the protection of taxpayers' rights is a fundamental aspect of the field of taxation. Returning to the purpose and purpose of the

implementing regulation, the implementing regulation is given the authority to formulate the substance of the procedure instead of adding to the normative substance, the sanction is the one that regulates human rights, ⁴⁰the substance of which is contained in the Law and so also regarding the implementing regulation as decided by the Constitutional Court with number 63/PUU-XV/2017 part 3.12 p.133-134.

7. Article 107 Paragraph 4

Medan Mayor Regulation Number 28 of 2024 accepts delegates from Government Regulation Number 35 of 2022 Article 103 paragraph 1 which has the meaning that the Administration and Procedures for providing Regional Tax Facilities are regulated by Perkada. Likewise, in delegation, the Mayor of Medan Regulation Number 28 of 2024 accepts delegates from Regional Regulation Number 1 of 2024 Article 92 paragraph 11 which has the meaning that the administration and procedures for providing regional tax facilities are regulated by the Mayor Regulation. On the substance of the Regulation of the Mayor of Medan Number 28 of 2024 Article 107 paragraph 4 which has the meaning that for tax debts that have been issued a Tax Installment Decree cannot apply for postponement of payment, as well as if the tax debt that has been issued a Decree to postpone payment cannot apply for Tax Installment. The formulation of the substance of the Mayor Regulation of Medan Number 28 of 2024 article 107 paragraph 4 is contrary to Government Regulation Number 35 of 2023 article 103 paragraph 1 and Regional Regulation Number 1 of 2024 article 92 paragraph 11. In the formulation of Article 107 paragraph 4 which should be with the phrase "For tax debts that have been issued an installment decree, installment applications can no longer be submitted," with the addition of the phrase "postpone payment", indirectly the implementing regulations add normative substance, which does not get delegation from laws and regulations. The purpose and purpose of postponing payments is related to human rights in the event that taxpayers experience liquidity difficulties.

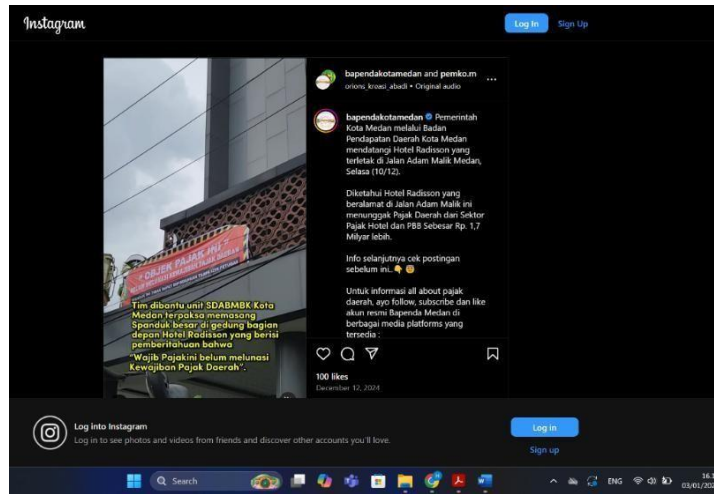
Legal Implication in the Application of Article 72 Paragraph 2

In the application of the Regulation of the Mayor of Medan Number 28 of 2024 Article 72 Paragraph 2 on the phrase "installation of warning stickers, warning banners, or the like." As data and information obtained from Instagram social media in the context of tax collection carried out by public officials of the Medan City Bapenda, it is suspected that they have violated the provisions of laws and regulations regarding the confidentiality of taxpayer data as stipulated in Article 103 of Law Number 1 of 2022 and Article 101 of the Mayor of Medan Regulation Number 1 of 2024. If the public official deliberately and without the right to distribute or transmit electronic information on social media with the intention of benefiting himself or others unlawfully, he is suspected of violating Article 27 B paragraph 2 of Law Number 1 of 2024 concerning the second amendment to Law Number 1 of 2008 concerning Electronic Information

⁴⁰ "Peraturan Pemerintah Republik Indonesia Nomor 35 Tahun 2023 Tentang Ketentuan Umum Pajak Daerah Dan Retribusi Daerah" Lembaran Negara Republik Indonesia Tahun 2023 Nomor 85 (2023): Art. 82.

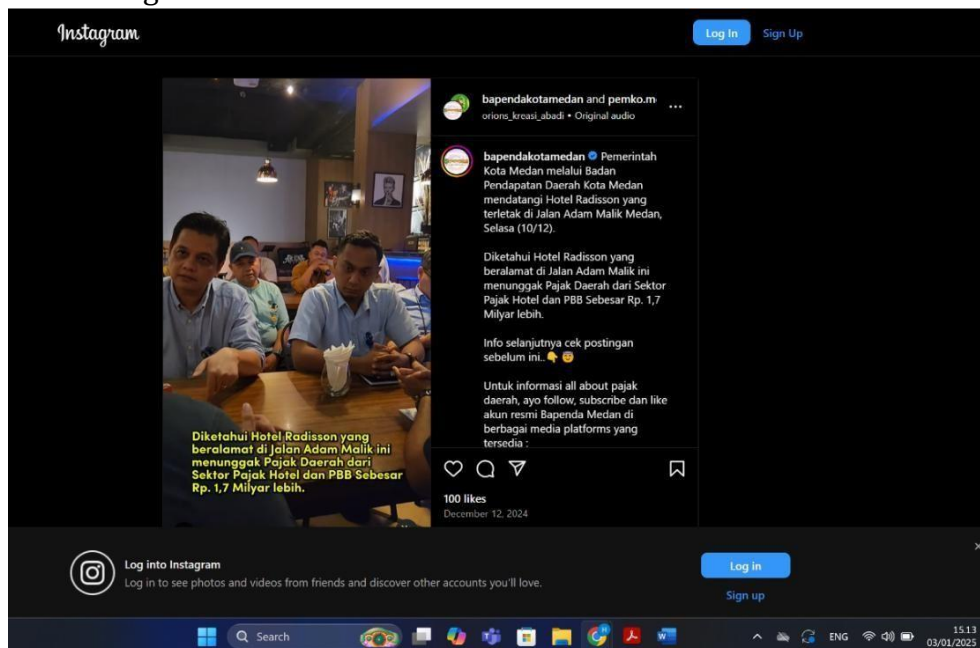
and Transactions. The following is data and information obtained from Instagram social media:

Figure 1. Banner Installation



Source: https://www.instagram.com/p/DDZefCASz6v/?igsh=dTRmeGE2Y2kyNThn&img_index=2, January 03, 2025

Figure 2. ScreenShoot Results of Tax Enforcement Video



Source: <https://www.instagram.com/reel/DDdmmB9yrKP/?igsh=cG5uOXBsMnhlcmti>, 03 January 2025

Based on Figure 1, it shows that the Medan City Regional Revenue Agency installed a banner containing a notice and Figure 2 shows the arrival of the Tax Collection Team led

by the Secretary of the Medan City Regional Revenue Agency as shown in a video published on social media Instagram, actions taken by public officials directly informing other parties of everything that is known. As has been regulated on the confidentiality of taxpayer data in Law Regulation Number 1 of 2022 Article 103 paragraphs 1, 2 and 3 which means that every official and expert appointed by the Regional Head is prohibited from notifying other parties of everything known or notified to him by the Taxpayer in the context of his position or work to carry out the provisions of laws and regulations in the field of Regional Taxation. The prohibition does not apply if, Officials and/or Experts appointed by the Regional Head act as witnesses or experts in court hearings and do not apply when, Officials and/or Experts appointed by the Regional Head to provide information to officials of state institutions or government agencies authorized to conduct examinations in the field of Regional Finance. For these actions, the public official can be subject to Criminal Threats as stipulated in Law Number 1 of 2022 Article 184 which means that officials or experts who violate the prohibition as referred to in Law Number 1 of 2022 in Article 103 paragraph (1) and paragraph (2), are threatened with criminal charges based on laws and regulations." The threat of Criminal Sanctions is based on the regulation of Law Number 9 of 1994 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 6 of 2023 Article 41 paragraphs 1 and 2 which means that in paragraph 1 if the Official due to his negligence does not fulfill the obligation to keep the matter confidential as referred to in Article 34 shall be sentenced to imprisonment for a maximum of 1 (one) year and a maximum fine of Rp. 25,000,000,- (twenty-five million rupiah), while in paragraph 2 an official who deliberately fails to fulfill his obligations or a person who causes non-fulfillment of the official's obligations as referred to in Article 34 shall be sentenced to a maximum of 2 (two) years in prison and a maximum fine of Rp. 50,000,000 (fifty million rupiah).⁴¹

If the public official deliberately makes a recording and does not have the right to distribute and/or transmit confidential information on taxpayer data to the Instagram social media platform managed by the Medan City Bapenda, then it has violated the provisions of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 27B paragraph 2 which means that if every person knowingly and without the right to distribute and/or transmit electronic Information and/or Electronic Documents, with the intention of unlawfully benefiting oneself or others, with the threat of defamation or with the threat of disclosure of secrets, coercing a person to Give an item that partly or wholly belongs to that person or belongs to another person or to give a debt, make a debt acknowledgment, or write off a debt." The existence of digital technology has enslaved people or society to commit legal acts, but it can also make it easier for people or society to commit acts that are contrary to the law. For the violation of the provisions of the laws and regulations, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions Article 45

⁴¹ "Peraturan Walikota Nomor 28 Tahun 2024 Tentang Tata Cara Pemungutan Pajak Barang Dan Jasa Tertentu, Pajak Reklame, Pajak Air Tanah Dan Pajak Sarang Burung Walet" Berita Daerah Kota Medan Tahun 2024 Nomor 28 (2024), Art. 107 4.

paragraph 10 which means that if any Person who intentionally and without the right distributes and/or transmits Electronic Information and/or Electronic Documents, with the intention of unlawfully benefiting himself or others, by means of pollution or by disclosure of secrets, forcing people to give an item that partly or wholly belongs to that person or belongs to another person or to give a debt, make a debt confession, or write off a receivable, as referred to in Article 278 paragraph (2) is punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah).

4. Conclusion

Based on the purpose and purpose of the establishment of the Mayor's Regulation functions as an Implementing Regulation, which should not add new normative substance that can cause confusion among taxpayers in the city of Medan. The existence of conflicting implementing regulations can cause abuse of power carried out by public officials and can open a gap for white-collar crimes. Based on the analysis that has been presented by the author from perspective, there are several articles in the Perwal that need to be reviewed more deeply and likewise public officials should know the law better than the community, because public officials are given the task of serving the community. In his journal, he also conveyed that public officials must have the action/practice of "serving, not being served"; "encourage, not hinder"; "make it easier, not more difficult"; "simple, not convoluted".

With the existence of implementing regulations that are contrary to laws and regulations, it can be categorized that the harmony between the local government and the central government is not in line. The disharmony has implications in terms of the economy, having a very large negative impact in terms of investment growth. When investment growth is hampered, economic growth will decline. As said by Mr. Bambang as Prabowo's Advisor, "Bambang explained, the problem of investment in Indonesia is still fairly classic. Starting from the length of licensing, bureaucratic complexity and legal certainty, the change of government has not been completed many times." Likewise, the implementation of the Perwal has great legal implications for the officials who implement it.

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