Tax Incentives for the Mineral Mining Sector in Indonesia as an Effort to Increase Investment

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ARTICLE INFO

Keywords
Tax Incentive
Mineral Mining
Investment

ABSTRACT (10PT)

Tax incentives are a popular policy among developing countries because these countries have a greater investment risk than developed countries, especially regarding poor infrastructure and the ineffectiveness of existing institutions in these developing countries. The purpose of this study is to analyze whether the application of tax incentives in the mineral mining sector can increase investment interest in Indonesia. This research is descriptive research with a qualitative approach. The results of the study show that the implementation of tax incentives is not a strong consideration for potential investors in investing in the mineral mining sector in Indonesia. In fact, there are other factors that need to be improved in order to increase investor interest, namely policy factors related to administrative uncertainty, interpretation and enforcement of existing regulations, environmental regulations, duplication and inconsistency of regulations, uncertainty regarding disputed land claims and protected areas, infrastructure (including access to roads, ports, availability of electricity and other supporting facilities), socio-economic agreements, political stability, labor issues, geological databases, and security.

INTRODUCTION

Indonesia is rich in metallic minerals. These metallic minerals are spread over seven mineralization paths, namely the Aceh Arc, Sumatra-Meratus Arc, Sunda Arc, Central Kalimantan Arc, East Sulawesi Mindanau Arc, Halmahera Arc, and Medial Papua Arc (Agustinus, 2019). The metallic minerals consist of copper, nickel, iron, bauxite, gold, silver, manganese and tin. Data from the Ministry of Energy and Mineral Resources in 2020 shows that Indonesia is ranked 6th in the world as a country with the largest geological resources.

Indonesia's wealth of metal mineral sources makes the metal ore mining industry one of the mainstay industries. The metal ore mining industry is in demand by domestic and foreign investors. Especially because of its many uses in supporting human life. However, it can be seen in Table 1 that there has been a decline in the realization of metal ore mining investment over the last 6 years even though the number of projects in this sector increased.

Table 1
Progress of Metal Ore Mining Investment Realization
2015-2020

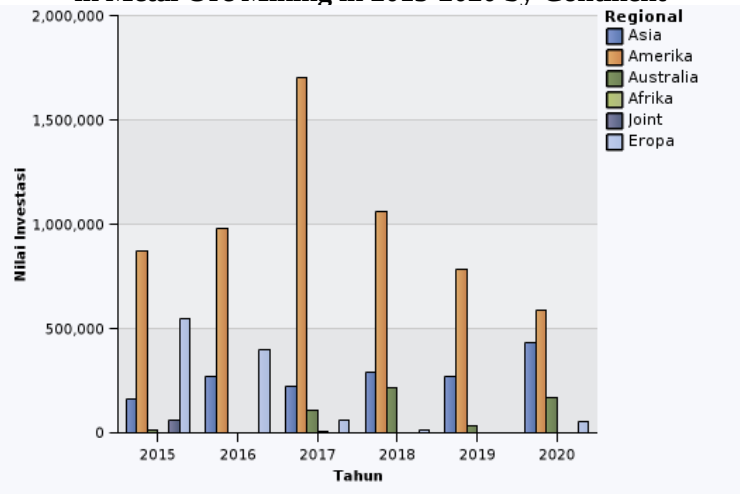
Year	Foreign investment		Domestic Investment	
	Number of Projects	Investment (US$ Thousand)	Number of Projects	Investment (Rp. Million)
2015	314	1,650,190.5	37	561,859.2
2016	332	1,644,605.2	23	3,512,045.3
2017	130	2,095,180.1	13	6,789,033.1

2018	119	1,586,637.5	21	4,426,490.3
2019	128	1,084,660.5	121	8,086,522
2020	215	1,237,836.9	253	3,858,373.9

Source: BKPM

Figure 1 also shows a significant decline in foreign investment from the Americas during the period of 2017 - 2020.

Figure 1
Development of Foreign Investment Realization in Metal Ore Mining in 2015-2020 by Continent



Source: BKPM

Although there was a global decline in the realization of investment in the metal ore mining sector, there was an increase in the realization of foreign investment in 2020. This foreign investment was dominated by investors from China, Singapore and Hong Kong. The increase in foreign investment in the metal ore mining sector was inseparable from the downstream mining policy. This policy was related to the prohibition of the export of raw minerals and concentrates, meaning that the metal mining goods must be processed first. The ban on exports of raw minerals is regulated in Government Regulation Number 23 of 2010 concerning the Implementation of Mineral and Coal Mining Business Activities which has been in effect since January 12, 2014. This policy was released because the mineral and coal sector contributed only 3.2% to exports and 5.12% to GDP as a result of the dominance of the mineral and coal sector by exports of raw minerals or concentrates (ESDM, 2015). On the other hand, the mineral sector in Chile, which also only exports mineral concentrates, was able to contribute 30% to exports and 6.7% to GDP (Saggu & Anukoonwattaka, 2015). Raw mineral management is carried out through a refining process (in the smelter). In 2010-2011 there were only 3 smelters operating. The rules regarding mineral management require Mining Business Permit (IUP) holders and Contract of Work (KK) holders to establish smelters in Indonesia as stipulated in Law Number 2009 concerning Mineral and Coal. However, this policy encountered many obstacles. Many mining companies have difficulty integrating upstream mining and downstream mineral management technically and financially. In addition, cash flow was also a problem for foreign companies holding Contracts of Work because they were financially unable to build smelters due to the ban on exports of raw minerals (Shahrir, 2017).

To boost investment in mineral management, the government issued tax incentives. Bolnick (Munongo, Akanbi, & Robinson, 2017) defines tax incentives as fiscal measures used by the government to attract domestic and international investment in various economic sectors. Rationally, tax incentives provide a reduction in the number of tax burdens that must be paid by investors so that they are able to attract investors to invest in countries that provide tax incentives. By reducing the tax burden, mineral mining companies are expected to be able to save their finances to meet the obligation to build a smelter.

Tax obligations for the mining and coal industry include article-21 income tax for employee salaries, article-23 income tax for supporting services in coal activities, article-4 paragraph-2 income

tax for construction services and land or land rental, article-15 income tax for lifting services through waters, Value Added Tax (VAT), which is imposed when coal has been processed into briquettes, and Land and Building Tax (PBB), whose tax object includes mining areas.

Tax incentives are a popular policy among developing countries because these countries have a greater investment risk than developed countries, especially regarding poor infrastructure and the ineffectiveness of existing institutions in these developing countries. (Munongo, Akanbi, & Robinson, 2017). Several studies have shown that the provision of tax incentives can increase Foreign Direct Investment (FDI) in several countries. Tung & Cho's research (Li, 2015) shows that tax incentives are able to increase FDI in China. In addition, Klemm & Parys (Li, 2015) in their research states that tax incentives are able to increase FDI in Africa, the Caribbean and Latin American countries.

However, several studies also show that the provision of tax incentives does not have a significant impact on FDI in developing countries. Tax incentives in Nigeria do not have a significant impact on FDI growth (Peters & Kiabel, 2015). Surveys conducted on several developing countries such as Burundi, Guinea, Jordan, Kenya, Rwanda, Servia, Tanzania, Tunisia, Uganda, Vietnam and Thailand show that investors will still invest in these countries even without tax incentives (James, 2013).

In this study, researchers examine the implications of tax incentive provision in the mineral mining sector in order to increase investment in Indonesia. The aim is to analyze whether the application of tax incentives in the mineral mining sector can increase investment interest in Indonesia. The difference between this research and previous research is that it focuses on tax incentives in the mineral mining sector in Indonesia, which have never been studied before.

RESEARCH METHOD

This research is a descriptive research with a qualitative approach. Research with a qualitative approach produces findings that are not obtained by statistical procedures (Basrowi & Suwandi, 2008). With a qualitative approach, the authors wanted to examine what the role of tax incentives in the mineral mining sector is when associated with increasing investment in Indonesia. Data was collected through observations at the Ministry of Energy and Mineral Resources of the Republic of Indonesia and interviews. The secondary data used were obtained from various sources. The four stages of the research used included data collection; data reduction which included simplification, classification and filtering of data to produce information that facilitates conclusion drawing; presentation of data, which was arranged in a systematic and easy to understand manner; and inductive conclusion drawing.

RESULT AND DISCUSSION

Tax incentives are regulated in Government Regulation Number 18 of 2015 concerning Income Tax Facilities for Investment in Certain business fields and/or in Certain Regions, which was further amended to Government Regulation Number 9 of 2016. The tax incentives provided are investment allowance, (net income reduction of a maximum of 30% of total investment in the form of tangible fixed assets including land used for main business activities which is charged for 6 years), accelerated depreciation and amortization, reduced rate for dividend income tax to foreign taxpayers, and compensation for losses up to a maximum of 10 years. The criteria are high investment value or investment with export value, or having a large employment absorption or a high local content.

In Government Regulations No. 18 of 2015 and No. 9 of 2016, tax facilities for the metal mineral mining sector are divided into tax facilities in certain business fields and tax facilities in certain business fields and certain regions. Mineral mining that is eligible to receive tax facilities in certain business fields is copper, gold and silver ore mining. Meanwhile, those eligible to receive tax facilities in certain business fields and certain areas are mining of iron sand, iron ore, uranium and thorium ore, tin ore, lead ore, bauxite ore, copper ore, nickel ore, and manganese ore, and mining of

other minerals which does not contain iron ore. The requirements for obtaining tax facilities are that companies must carry out new construction and expansion of smelters.

In 2019, the government issued Government Regulation Number 78 of 2019 concerning Income Tax Facilities for Investment in Certain business fields and/or Certain Regions, replacing Government Regulation No. 9 of 2016. The striking difference is that tax facilities in the mineral mining sector are entirely provided on the basis of certain business fields. This further enlarged the scope of the metal mineral mining sector which can obtain tax facilities without being limited by certain regional conditions. Another difference is that investment registration has been conducted online since then through the Online Single Submission (OSS) Institute.

To implement Government Regulation no. 78 of 2019, the government issued Regulation of the Minister of Finance Number 96/PMK.010/2020 concerning Amendments to Amendments to Minister of Finance Number 11/PMK 011/2020. In this regulation, the application for tax facilities can be done through the OSS system, starting from submission, verification to issuance of decision letters. This is done to streamline the bureaucracy. Previously, submission of tax facilities was done manually through the One-Stop Service (PTSP) for approval to be forwarded to the Minister of Finance. With OSS, investors can get certainty more quickly about the acceptance or rejection of investment applications and tax facilities at the same time.

Tax facilities and accelerated licensing at the central level do not necessarily make it easier for investors in the mining sector. The next problem that arises is the issue of overlapping regulations at the regional level. For example, in Tanah Laut Regency, South Kalimantan, where there was an overlapping case between Plantation Utilization Rights and Mining Business Permits, especially related to Spatial and Regional Planning (RTRW). This problem led to the stalling of the granting of mining permits at the regional level (Utami, 2018). This was reinforced by a survey conducted by the Fraser Institute in 2020 regarding the attractiveness of investment in the mineral mining sector, which stated that there were still concerns over the uncertainty of disputed land claims, the decline in protected areas, and the existence of duplication and inconsistency of regulations. It is also mentioned that the legal system in Indonesia is a major barrier to investment (Yunis & Aliakbari, 2021).

In 2020, the government reformed the Mineral and Coal Law through Law Number 3 of 2020. This law gave the Central Government full rights to control minerals and coal. The control in question included policies, regulations, management, management and supervision. In the previous law, namely Law Number 4 of 2009, the control of minerals and coal was also given to the Regional Government. The reform of the Mineral and Coal Law was expected to reduce the bureaucracy at the regional level and led to accelerated investment.

Based on a study conducted by the Fraser Institute, respondents considered that the factors that were taken into consideration when deciding to invest were policy (40%) and mineral resource potential (60%). The following is data on the investment attractiveness index for 77 states that are in the top 5 and bottom 5 based on the Fraser Institute survey :

Table 2
Investment Attractiveness in 2020

Rating	Geographic Region		Score
1/77	United States	Nevada	91.05
2/77	United States	Arizona	90.45
3/77	Canada	Saskatchewan	89.38
4/77	Australia	Western Australia	88.82
5/77	United States	Alaska	88.06
73/77	Argentina	La Rioja	44.44
74/77	Oceania	Indonesia	44.43
75/77	Africa	Tanzania	42.08
76/77	Argentina	Chubut	40.58
77/77	Latin America and the Caribbean Basin	Venezuela	17.14

Source: Fraser Institute

It can be seen that Indonesia was in position 74 of the 77 countries surveyed with an investment attractiveness score of 44.43. This was certainly influenced by policy factors and the potential of mineral resources. Bad policies can confiscate almost any potential profit. Environmental factors can also be an obstacle to mining activities, regardless of the mineral potential. Bad policies can also cause knowledge of mineral potentials to be not well received by potential investors, thus influencing their decisions.

If the assessment had focused on the policy perception factor, investment attractiveness for Indonesia in 2020 was still in the near-end position, which was 69th out of 77 countries surveyed. In fact, the ranking obtained decreased by 5 ranks, because in 2019 Indonesia was ranked 64th out of 76 countries surveyed (Yunis & Aliakbari, 2021). This assessment of policy perception factors is a composite index experienced by managers and executives of the impact of policies in their respective regions. The survey questions asked related to administrative uncertainty, interpretation and enforcement of applicable regulations, environmental regulations, duplication and inconsistency of regulations, taxation, uncertainty regarding disputed land claims and protected areas, infrastructure, socio-economic agreements, political stability, labor issues, geological databases, and security. The following are the 3 highest rankings and the 10 lowest countries that have the most attractive policies and are of interest to investors in the mineral mining sector in 2020 :

Table 3
Policy Perception Ranking 2020

Rating	Geographic Region		Score
1/77	United States	Idaho	100
2/77	United States	Wyoming	99.54
3/77	Europe	Finland	99.07
68/77	Argentina	La Rioja	54.84
69/77	Oceania	Indonesia	54.54
70/77	Africa	DRC	53.64
71/77	Oceania	Papua New Guinea	53.35
72/77	Africa	Tanzania	48.94
73/77	Argentina	Mendoza	47.45
74/77	Latin America and the Caribbean Basin	Bolivia	44.73
75/77	Africa	Zimbabwe	39.42
76/77	Argentina	Chubut	38.94
77/77	Latin America and the Caribbean Basin	Venezuela	0

Source: Fraser Institute

Furthermore, for the assessment of the potential of mineral resources owned, Indonesia was also in the almost-final position, namely 69th out of 77 countries surveyed. Arizona had the best mineral resource potential with a score of 86.54, followed by Nevada in second place with a score of 86. The jurisdictional ranking is based on the geology of the region, assessed whether the geology of the region encourages exploration investment or does not hinder investment (Yunis & Aliakbari, 2021).

From the problems above, it turns out that the provision of tax incentives does not provide a significant contribution. The presence or absence of tax incentives is not a strong consideration for potential investors in investing in the mineral mining sector in Indonesia. In fact, there are other factors that need to be improved in order to increase investment, namely policy factors, ranging from administrative uncertainty, interpretation and enforcement of existing regulations, environmental regulations, regulatory duplication and inconsistency, taxation, uncertainty regarding disputed land claims and protected areas, infrastructure (including access roads, ports, availability of electricity and other supporting facilities), socioeconomic agreements, political stability, labor issues, geological databases, and security.

CONCLUSION

Based on the discussion above, it can be concluded that currently Indonesia is in the lowest position as the country that is least attractive to investors in the mineral mining sector, both in terms of policy factors and the potential of mineral resources. Currently, there are still concerns among potential investors over the uncertainty of disputed land claims, the decline in protected areas and the duplication and inconsistency of regulations in Indonesia. It was also stated that the legal system in Indonesia is a major barrier to investment because it is still far from being transparent, not corrupt, orderly, and managed efficiently. To attract investors, it turns out that the application of tax incentives is not a strong consideration for potential investors in investing in the mineral mining sector in Indonesia. In fact, there are other factors that need to be improved, namely policy factors, ranging from administrative uncertainty, interpretation and enforcement of existing regulations, environmental regulations, duplication and inconsistency of regulations, uncertainty regarding disputed land claims and protected areas, infrastructure (including access roads, ports, etc.), availability of electricity and other supporting facilities), socio-economic agreements, political stability, labor issues, geological databases, and security.

REFERENCES

[1] Agustinus, E. T. (2019). *Rekayasa Benefisiasi Pemrosesan Mineral untuk Meningkatkan Nilai Tambah Sumber Daya Mineral MArginal.* Jakarta: LIPI Press.
[2] ESDM, D. J. (2015). *Laporan Kinerja (LAKIN) Tahun 2015.*
[3] James, S. (2013). Tax and Non-tax Incentives and Investments: Evidence and Policy Implications. *Investment Climate Advisory Services of the World Bank Group*.
[4] Li, Q. (2015). Fiscal decentralization and tax Incentives in the Developing World. *Review of International Political Economy*, 1-32.
[5] Munongo, S., Akanbi, O. A., & Robinson, Z. (2017). Do Tax Incentives matter for investment? A literature review. *BEH- Business and Economic Horizons, 13*(2), 152-168.
[6] Peters, G. T., & Kiabel, D. B. (2015). Tax Incentives and Foreign Diret Invenstment in Nigeria. *IOSR Journak of Economics and Finance, 6*(5), 10-20.
[7] Saggu, A., & Anukoonwattaka, W. (2015). *Commodity Price Crash: Risks to Exports and Economic Growth in Asia-Pacific LDCs and LLCs.* United Nations ESCAP.
[8] Syahrir , I. (2017). Kebijakan Hilirisasi Mineral : Reformasi Kebijakan untuk Meningkatkan Penerimaan Negara. *Kajian Ekonomi Keuangan, 1*(1), 42-67.
[9] Utami, R. A. (2018, Oktober). Tumpang Tindih Antara Izin Usaha Pertambangan dengan Hak Guna Usaha Perkebunan. *Justitia Jurnal Hukum, 2*(2), 317-330.
[10] Basrowi, & Suwandi. (2008). *Memahami Penelitian Kualitatif*. Jakarta: Rineka Cipta.
[11] Yunis, J., & Aliakbari, E. (2021). *Fraser Institute Annual Survey of Mining Companies 2020*. Retrieved from http://www.fraserinstitute.org