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# Impact of Incentive Granting Arrangements on The Implementation of Investment Activities in Indonesia

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## ABSTRACT

This study specifically aims to find, describe and analyze arrangements for giving incentives to investors according to Law No. 25 of 2007 concerning Investment and the impact of the arrangement of providing incentives for foreign investors towards the acceleration of development in Indonesia. The specific target to be achieved in this study is the improvement of government policies in regulating incentives for investment activities. The method used in this study is a normative legal research method, namely as one of the studies that is commonly known in the field of law to study the substance of positive law textually (not only against norms, but also principles, even values that contained in it). The government provides convenience to investors who invest their capital, namely the convenience of expanding their business and making new investments. The incentives provided include direct incentives and indirect incentives. The impact of setting up incentives for foreign investors to accelerate development in Indonesia will be seen from the increasing number of investments coming into Indonesia. The total value of investment coming into Indonesia from year to year shows significant changes. That means, the investment policy implemented is capable of accelerating the development of investment in Indonesia.

**Keywords:** *Impact, Incentives, Investment*

## 1. INTRODUCTION

Investment is a part of economic civilization that can be used as a solution to address economic problems in a country. In economic theory, the investment factor has a very important role to increase economic growth. Therefore, the role of investment in the economy is strategic. Without adequate investment, there will be no high economic growth and no visible improvement in economic welfare.

Investment policy is a tool to attract capital owners (investors) to invest in Indonesia. however, the need for the presence of foreign investment is special and therefore attracting foreign investment must be carried out in a very special way considering the intense competition with other countries. So the legal system, institutions and incentives must be built as well as possible so that Indonesia becomes an attractive investment destination. Talking about incentives for investment is one of the important things because it can make Indonesia more attractive which in turn can increase the value of investment in Indonesia. With an increase in investment value, it will certainly affect the acceleration of development in Indonesia. [1]

From the description of the background above, the problem in this study is how to regulate the provision of incentives for investors according to Law No. 25 of 2007 concerning Investment and What is the

impact of setting up incentives for foreign investors on accelerating development in Indonesia?

Various economic and/or business legal texts define investment as direct investment by local investors, direct investment by foreign direct investors (FDI), and indirect investment by foreign third parties. (FII stands for foreign indirect investment) [2].

The term investment is defined in the financial and investment dictionary as "the use of capital to generate money, either through income-generating means or through risk-based endeavors designed to raise capital." Investment may also refer to a financial investment (in which an investor puts money into a business) or to the investment of a person's labor or time in order to benefit from the success of his work [3]

According to Investment Law No. 25 of 2007 (UUPM), investment includes all types of investment operations, both domestic and international, carried out on the territory of the Republic of Indonesia [4].

Foreign Investment (PMA) is an important component in financing a country's development. The presence of FDI in a country is recognized to be able to stimulate the expansion of technology, efficiency and productivity. From the advantages that can be obtained from the existence of FDI, many developing countries are trying to attract foreign investment. Hard competition occurs between developing countries in an

effort to attract this FDI and with strategies that are continuously being developed. [5]

The Indonesian government in every decision making must be based on the existing legal basis, every government policy must be bound by clear legal rules. This rule of law will also become a guideline for investors or business actors who will invest in this country. Because one of the factors that influence the implementation of development is guarantee or legal certainty. [5]

Legal certainty for investment is the most important and most important thing for business actors or investors. Through Law Number 25 of 2007 concerning Investment, the government has guaranteed the acceleration of development in the regions, through legal certainty regarding investment, this law has become the basis for every regional government to carry out development through investment activities in the regions. [6]

## 2. RESEARCH METHOD

This university's applied research employs the normative legal research technique, which is one of the legal research methods often used to analyze the textual components of positive legislation (not just norms but also principles and values included therein) [7].

The technique utilized in this research is tailored to the sort of research being undertaken, in this case normative legal research (legal research) [8] Based on the indications in the study's title and the many ways to legal research, the approach utilized in this study focuses on three (three) approaches, namely the statutory approach, the case-by-case approach, and the case-by-case approach. A legislative approach, as well as a conceptual approach.

Legal papers are necessary, including main legal documents, secondary legal documents, and tertiary legal documents. The Investment Law No. 25 of 2007 is the primary legal instrument. Meanwhile, secondary legal documents are legal documents that explain the main legal documents to help analyze problems in book form. Journals related to the research topic were obtained from legal text experts' websites and blogs, as well as other legal articles related to the problem.

Thus, the approach of collecting legal documents employed in this study is library research, which is the collection, investigation, and analysis of legal papers linked to defined legal concerns, including main legal documents, secondary legal documents, and high school legal documents.

## 3. RESULTS AND DISCUSSION

### 3.1 Arrangements for Providing Incentives for Investors According to Law no. 25 of 2007 concerning Investment.

Investment has an important meaning for the Government in the midst of the existing limitations in financing all types of development needs. Investment policy is one form of government stimulation in seeking private sector participation to be able to contribute to the success of the national development program. Investment is one of the alternatives that is considered good for the government to solve capital difficulties in expediting development.

Law Number 25 of 2007 concerning Investment, hereinafter referred to as the Investment Law, as the legal basis for implementing investment in Indonesia and its implementing regulations, the scope of its material has provided various incentives in the form of services, facilities, facilities and guarantees for investors provided in investment in Indonesia. [9]

Investment Incentives/Investment Incentives are incentives offered by the government or regional governments to stimulate private sector investment both in general and in certain fields. Stimuli provided by the government can be in the form of local/regional tax exemptions and working on infrastructure to attract potential investors.

The incentives provided include direct incentives and indirect incentives. The provision of this incentive aims to be more able to attract investors. Direct incentives for investment in Indonesia include:

- a. 100% Capital Ownership for Foreign Investment Companies;
- b. Asset Transfer, Employment Transfer and Repatriation;
- c. Taxation;
- d. Land rights;
- e. Immigration and Stay Permits; And
- f. Import Licensing Facility.

While indirect incentives are given related to:

- a. Guarantees against Nationalization Actions; And
- b. Investment Dispute Settlement. [10]

Article 18 of the Investment Law states that the Government provides facilities to investors who make investments. The facility in question is to expand the business and make new investments. To obtain this

facility, investors must meet one of the following criteria: (Article 18 paragraph (3))

- a. Absorb a lot of manpower;
- b. Including high priority scale;
- c. Including infrastructure development;
- d. Performing technology transfer;
- e. Doing pioneer industry;
- f. Being in remote areas, underdeveloped areas, border areas, or other areas deemed necessary;
- g. Maintain environmental sustainability;
- h. Carry out research, development and innovation activities;
- i. Partnering with micro, small, medium enterprises or cooperatives; or industries that use domestically produced capital goods or machinery or equipment.

The forms of the facilities provided include:

- a. Income tax by reducing net income up to a certain level on the amount of investment made in a certain time;
- b. Exemption or reduction of import duty on the import of capital goods, machinery or equipment for production purposes which cannot be produced domestically;
- c. Exemption or reduction of import duty for raw materials or auxiliary materials for production purposes for a certain period of time and under certain conditions;
- d. Exemption or suspension of value added tax on imports of capital goods or machinery or equipment for production purposes which cannot be produced domestically for a certain period of time;
- e. Accelerated depreciation or amortization; And
- f. Land and building tax relief, especially for certain business fields, in certain regions or areas or regions.

For foreign investment companies that are not in the form of a limited liability company, they do not receive the facilities mentioned above.

In addition to the facilities referred to in Article 18, the government also provides easy services and/or permits for investment companies to obtain land rights, immigration service facilities and import licensing facilities.

### **3.2 The Impact of Setting Incentives for Foreign Investors on the Acceleration of Development in Indonesia.**

To expedite growth through investment, the government has made initiatives to attract local and

foreign investors, design rules, and offer investors with facilities and conveniences.

According to Article 1 Number 5 of Government Regulation Number 45 of 2008 of the Republic of Indonesia Number 45 of 2008 concerning Guidelines for Providing Incentives and Facilitating Investment in the Regions, jo. The Minister of Home Affairs of the Republic of Indonesia Number 64 of 2012 explained that incentive provision is local government support to investors. capital to stimulate further investment in the region. Meanwhile, the supply of facilities implies that local governments make it easier for investors to conduct all investment operations in order to stimulate more investment in their communities.

Sikula explains that incentives are something that encourages or has a tendency to stimulate an activity, incentives are motives and rewards that are formed to improve production. [11] Incentives are basically a strategy to attract foreign capital. Limited incentives will make it difficult to attract capital to come to Indonesia. However, too much indulgence for investors, especially foreign investors, will also affect the business climate.

The need for increased facilities in the form of incentives is very important to attract investors. Providing leeway and convenience for investors to choose the fields of business they are interested in is one form of business to attract investors. It should be remembered that competition to attract investors is getting tougher, and developing countries generally offer a wide range of incentives. This results in investors coming to areas where it is possible to obtain better profits.

Incentives and facilities are given to investors who meet at least one of the criteria. Article 19-33 Permendagri No. 64 of 2012 concerning Guidelines for the Implementation of Incentives and Investment Facilitation in the Regions that the criteria for providing incentives are as follows:

- a. contribute to increasing people's income applies to business entities or investors in the region;
- b. absorbing a lot of local workers is the ratio between the number of local workers and the number of workers employed;
- c. using most of the local resources is a comparison between local raw materials and raw materials taken from outside the area used in business activities;
- d. contributing to the improvement of public services is the implementation of corporate social responsibility in the provision of public services;
- e. contribute to the increase in Gross Regional Domestic Product applied to investors whose

- business activities optimize the utilization of local natural resource potentials;
- f. environmentally sound and sustainable applies to investors who have environmental impact analysis documents. The criteria referred to apply the principles of balance and justice in the utilization of natural resources and adhere to the regional spatial layout plan;
  - g. including the high priority scale is applied to investors whose business is located and/or in accordance with: 1) Regional Spatial Planning; 2) Regional Long Term Development Plan; 3) Regional Medium Term Development Plan; and 4) Fast Growing Strategic Areas;
  - h. including infrastructure development applies to investors whose business activities support regional governments in providing the required infrastructure or infrastructure;
  - i. carry out transfer of technology to investors whose business activities provide opportunities for regional governments and the community to apply the said technology;
  - j. conducting pioneer industry applies to investors who open new types of business with: 1) broad business activity linkages; 2) provide added value and take into account high externalities; 3) introducing new technologies; and 4) has a strategic value in supporting the development of regional superior products.
  - k. located in remote areas, underdeveloped areas, or border areas apply to investors who are willing and able to develop their business activities in the area. The criteria referred to are areas with very limited accessibility, and the availability of facilities and infrastructure is low.
  - l. carry out research, development and innovation activities applicable to investors whose business activities are engaged in research and development, technological innovation in managing regional potential;
  - m. partnering with micro, small, medium, or cooperative enterprises applies to investors whose business activities are conducting partnerships with micro, small, medium, and cooperative entrepreneurs, or;
  - n. industries that use domestically produced capital goods, machines, or equipment apply to investors who use them

Incentives and facilities provided by the regional government in order to invite investment, among others, are in the form of security guarantees in doing business, abolishing regional regulations that can create high cost economies and socio-political pressures and facilitating licensing services. The non-fiscal incentives include:

- a. One Stop Integrated Services (PTSP)
- b. Electronic Investment Licensing Information Service System (SPIPISE)

Forms of providing incentives and facilities based on Article 3 PP No. 45 of 2008 concerning Guidelines for Providing Incentives and Facilitation of Investment in the Regions and Article 9 -17, Regulation of the Minister of Home Affairs No. 64 of 2012 concerning Guidelines 68 for the Implementation of Providing Incentives and Facilitation of Investment in the Regions, are:

- a. Providing incentives can take the form of:
  1. Reduction, relief, or exemption from local taxes is Reduction of Payable Taxes, relief or exemption from regional taxes according to financial capabilities and regional policies, including:
    - a) Provincial Tax; and
    - b) Regency/Municipal Tax.
  2. Reduction, relief, or exemption from regional levies is the provision of investment incentives in the form of relief, reduction and exemption according to financial capacity and regional policies, including:
    - a) Public Service Retribution;
    - b) Business Service Retribution; And
    - c) Certain Licensing Retribution.
  3. Provision of stimulant funds is intended to strengthen capital in the sustainability and development of micro, small and medium enterprises and cooperatives. Aimed at micro, small and medium enterprises and cooperatives and/or
  4. Provision of capital assistance can be in the form of capital and asset participation. The provision of capital assistance as referred to is carried out in accordance with the provisions of laws and regulations
    - b. Facilitation can take the form of:
      1. The provision of data and information on investment opportunities in the form of regional governments provides easy access in obtaining data and information through facilities and infrastructure according to regional capabilities. Investment opportunities as referred to include:
        - a) map of regional economic potential;
        - b) provincial, regency/city regional spatial layout plans; And
        - c) strategic plan and regional priority scale.
      2. Provision of facilities and infrastructure;
      3. Provision of land or location;
      4. Providing technical assistance in the form of facilitating micro, small, medium-sized enterprises and cooperatives in the form of

providing technical assistance in the form of technical guidance, training, experts, studies and/or feasibility studies; And

5. Acceleration of licensing [12]

With the provision of incentives for investors, the total investment value that entered Indonesia during the first half of 2018 reached IDR 361.6 trillion, which means it has only reached 47.3% of the target by the end of the year of IDR 765 trillion. Based on statistical data released by the Investment Coordinating Board (BKPM), in the first quarter, from January to March 2018, investment in Indonesia reached IDR 185.3 trillion. From these data it can be concluded that investment development in Indonesia is moving in a positive direction and is in line with the 2018 investment target in Indonesia, which is IDR 765 trillion.

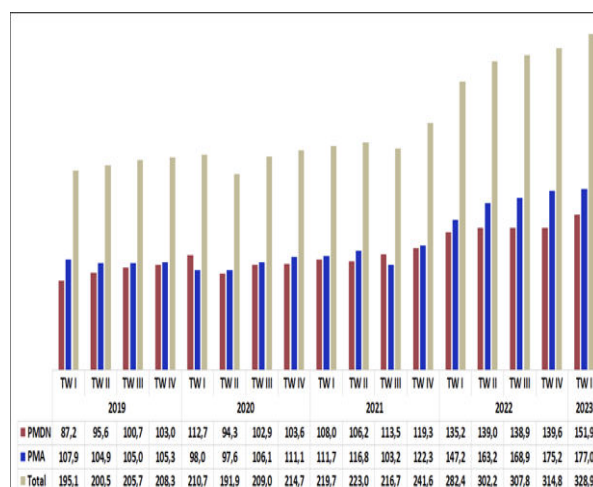
Investment realization in 2019 consisted of 52.9 percent PMDN and 47.1 percent FDI. With the existing data, BKPM is optimistic that with the new investment ease policy, the investment target in 2019 will be achieved. This optimism is also supported by the spirit of BKPM to create an investment haven for investors. Although it is realized that the investment barriers that are still being experienced by both foreign and local business actors include requests for tax holiday facilities and incentives, and overlapping land issues that still threaten the growth of investment in our country [13].

In 2023, investment growth in the first quarter of 2023 will reach 16.5%. This is as realised by the Ministry of Investment/Investment Coordinating Board (BKPM) for the January-March (Quarter I) 2023 period, which is Rp. 328.9 trillion. There is an increase of 16.5% compared to the same period in 2022 and even in previous years. With this increase in investment, it will absorb 384,892 Indonesian workers (TKI).

With this investment growth, there is optimism that Indonesia's economic growth will reach around 5%. Where fixed investment will make an important contribution to economic growth, even though globally it is predicted to slow down in 2023 [14]. Economic optimism for 2023 will be good if we are able to maintain this momentum.

The Minister of Investment/Head of BKPM Bahlil Lahadalia further conveyed that the contribution of foreign investment (PMA), which in the first quarter of 2023 reached Rp. 177.0 trillion or 53.8% exceeded the Domestic Investment (PMDN) of Rp. 151.9 trillion or 46.2% of the achievement for this period. This means that the level of trust in the international business community in Indonesia is still good and even shows an increase of 20.2% compared to the same period in the previous year. [15]

Figure 1. Progress of Investment Realization 2019 – 2023: Quarterly



Source: Communications and Information Services Bureau of the Ministry of Investment/BKPM

After seeing the development of investment in Indonesia both from the startup investment value and various other business sectors. Indonesia earned the nickname as “The Second Best Investment Destination Country in the World”. Of course, the designations or nicknames attached to the country of Indonesia are not easily obtained, but Indonesia must show that indeed the investment climate in Indonesia is indeed very friendly for investors so that investors do not hesitate to pour their funds into Indonesia and make Indonesia as a home or paradise for investors.

**4. CONCLUSION**

Based on the findings of the above research, the following conclusions may be drawn: Articles 18-40 of the Investment Law establish arrangements for offering incentives to investors in accordance with Law No. 25 of 2007. The government is said to give facilities to investors who make investments, such as facilities to develop their firm and make new investments. Incentives supplied include both direct and indirect incentives. The rising quantity of investment pouring into Indonesia demonstrates the significance of creating incentives for international investors to drive growth in Indonesia.

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