



Excise Taxation of Sugar-Sweetened Beverages: A Legal Policy Approach to Public Health and State Budget Protection

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Abstract: *The policy of imposing excise tax on Sugar-Sweetened Beverages is a strategic measure to reduce the growing incidence of Non-Communicable Diseases in Indonesia, particularly diabetes and obesity linked to the consumption of sugary drinks. The yearly increase in SSBs consumption harms public health and imposes a significant financial burden on the state, especially through the Social Health Security Administering Body (BPJS). Therefore, firm legal intervention is needed to limit consumption and promote a healthier lifestyle. The implementation of excise taxes on sugar-sweetened beverages should not be viewed merely as a fiscal instrument to boost revenue, but also as a means of protecting the public's right to live a healthy and productive life. This policy must be understood as part of a broader public health strategy rather than solely an economic measure. Moreover, the policy is expected to encourage industries to reformulate their products into healthier alternatives to avoid excise taxation.*

Keywords: *Excise, Sugar-Sweetened Beverages, Legal Policy, Public Health*

Abstrak: Kebijakan pengenaan cukai terhadap Minuman Berpemanis dalam Kemasan merupakan langkah strategis untuk menurunkan meningkatnya prevalensi Penyakit Tidak Menular di Indonesia, khususnya diabetes dan obesitas yang terkait dengan konsumsi minuman berpemanis. Peningkatan konsumsi MBDK setiap tahun berdampak buruk pada kesehatan masyarakat dan menimbulkan beban finansial yang signifikan bagi negara, terutama melalui Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan. Oleh karena itu, intervensi hukum yang tegas diperlukan untuk membatasi konsumsi dan mendorong gaya hidup yang lebih sehat. Penerapan cukai MBDK tidak boleh dipandang semata-mata sebagai instrumen fiskal untuk meningkatkan pendapatan, tetapi juga sebagai sarana untuk melindungi hak masyarakat untuk hidup sehat dan produktif. Kebijakan ini harus dipahami sebagai bagian dari strategi kesehatan masyarakat yang lebih luas, bukan semata-mata sebagai langkah ekonomi. Selain itu, kebijakan ini diharapkan dapat mendorong industri untuk melakukan reformulasi produk menjadi pilihan yang lebih sehat guna menghindari pengenaan cukai.

Kata Kunci: *Cukai, Minuman Berpemanis Gula, Kebijakan Hukum, Kesehatan Publik*

A. Introduction

According to the International Diabetes Federation (IDF), Indonesia ranks fifth in the world in terms of the highest number of diabetes sufferers, with more than 20 million people living with diabetes.¹ The 2023 Indonesian Health Survey reports that an average of 45%-51% of the population consumes sugar-sweetened beverages (SSBs) ≥ 1 time per day. Therefore, it can be concluded that SSBs have become a part of the daily diet in Indonesia. Excessive sugar intake, particularly from SSBs, has been proven to increase the risk of obesity and other metabolic disorders.² Furthermore, the excise tax policy on SSB was actually designed in 2016 but has not yet been enacted due to various considerations.

On September 19, 2024, the House of Representatives (DPR) passed the 2025 State Budget Law with the fiscal policy theme of "Accelerating Inclusive and Sustainable Economic Growth". In recognizing this theme, the government has formulated a short-term strategy that focuses on public health and economic stability to achieve the Indonesia Emas 2045 vision. One of the instruments deemed relevant is the imposition of an excise tax on SSBs, which was introduced in 2024 as an effort to reduce the prevalence of diabetes and obesity. In line with this, the Center for Health Management Policy (PKMK) published a policy document recommending the application of fiscal instruments to address these health issues.³

The definition of Sugar-Sweetened Beverages (SSBs) is implied in BPOM Regulation No. 21 of 2016, which classifies non-alcoholic drinks into five categories: drinking water and carbonated drinks, fruit/vegetable juices, fruit/vegetable nectars, water-based flavored drinks, and extracted or infused drinks such as coffee and tea. The World Health Organization (WHO) reports that excise tax on SSBs by increasing beverage prices by 20% reduces consumption by around 20% and is considered an effective measure.⁴ Why is this the case? SSBs are very affordable for the lower-middle class, making them appealing due to their affordability and easy availability.

¹T. Riza Zarzani, Ismaidar Ismaidar, and Sukardi Sukardi, "Corporate Criminal Liability for the Crime of Forgery of Export Documents According to Law of the Republic of Indonesia Number 17 of 2006 Concerning Customs," *International Journal of Law, Crime and Justice* 1, no. 3 (2024); Hasyim Ali Shahab and Khoirunurrofik Khoirunurrofik, "Optimal Excise Tax on Indonesia's Unhealthy Food," *Universal Journal of Public Health* 9, no. 5 (2021); I. Gede Widhiana Suarda et al., "Illicit Cigarette Trade in Indonesia: Trends and Analysis from the Recent Judgments," *Sriwijaya Law Review* 8, no. 1 (2024); Jims Oktovianus et al., "Criminal Excise Sanctions in the Perspective of Ultimum Remedium: Forward-Looking and Backward-Looking Approaches in Indonesia for Sustainable Economic Justice (SDG 8 & SDG 16)," *Journal of Lifestyle and SDGs Review* 5, no. 3 (2025); <https://www.voaindonesia.com/a/jumlah-penderita-diabetes-di-indonesia-terus-meningkat/7870777.html>

²Cahyo Baksoro Indra Maulana, "Law Enforcement Policy on Violation of Illegal Cigarette Circulation in Indonesia (Study on Indonesian Customs Directorate General)," *Journal of Indonesian Legal Studies* 4, no. 1 (2019); Meredith Blake, Marilyn Bromberg, and Stephanie Milan, "An Australian Sugary-Sweetened Beverage Levy: Why, What and How?," *Journal of Law and Medicine* 30, no. 2 (2023).

³<https://djpb.kemenkeu.go.id/kanwil/sultra/id/data-publikasi/artikel/3134-urgensi-pengenaan-cukai-pada-minuman-berpemanis-dalam-kemasan.html>

⁴Leander Resadhathu Rusdiono, "The Urgency Of Imposing Excise On Sugar-Sweetened Beverages," *Jurnal Pajak Dan Keuangan Negara (PKN)* 5, no. 1 (2023).

If no efforts are made to reduce SSBs consumption, it will have an economic and human resource impact on the country. According to a report from the Social Health Security Administering Body (BPJS), the cost of diabetes care has increased by 8% per year over the past three years.⁵ Imagine this: one 350 ml bottle of fruit-flavored packaged tea contains approximately 42 grams of sugar. The Ministry of Health recommends, the daily sugar intake limit should not exceed 50 grams, or the equivalent of four tablespoons of sugar, which is 10% of the average energy requirement of 2,000 calories per person. If someone drinks three bottles of such packaged tea, their sugar intake is equivalent to 600 calories, and this calculation does not include sugar from other foods or snacks. When compared with consumer data, it is evident that 26% of adolescents under the age of 17 consume SSBs every day.⁶

According to estimates from the Ministry of Finance, the imposition of excise tax on SSBs could increase state revenue by IDR 2.7 trillion to IDR 6.25 trillion per year.⁷ The collection of excise tax, as stated in Article 23A of the 1945 Constitution, which reads “Taxes and other compulsory levies for state purposes shall be regulated by law,” aligns with the implementation of Law No. 29 of 2007 on Excise, which defines excise tax as a state levy. SSBs themselves already meet the characteristics and criteria established under this law, namely;

- 1) Consumption needs to be controlled.
- 2) Its distribution needs to be monitored;
- 3) Its use can have negative effects on society or the environment.
- 4) Its use needs to be subject to state levies for the sake of fairness and balance.

In Indonesia, there are three types of goods whose distribution is controlled, namely ethanol or ethyl alcohol, beverages containing ethyl alcohol, and tobacco products. Compared to other ASEAN countries, Indonesia is recorded as the country with the fewest excise goods. Neighboring countries impose excise taxes on motor vehicle emissions, plastics, and even SSBs themselves. Furthermore, the dangers of SSBs in Indonesia meet the third criterion, namely that they have negative effects when consumed in excess, and the fourth criterion, which is supported by the fact that excise taxes have reduced consumption among the lower-middle class more significantly than among the upper-middle class. Furthermore, the imposition of an excise tax on SSBs is in line with Article 1, No. 13 of Law No. 36 of 2009 concerning Health, which states that preventive health services are activities aimed at preventing health problems/diseases.

As legal subjects, the public has high expectations of regulatory capabilities; therefore, excise tax regulations on SSBs must provide legal protection for consumers

⁵<https://www.liputan6.com/health/read/4412275/biaya-pengobatan-diabetes-rp2-triliun-tiap-tahun-belum-termasuk-komplikasi>

⁶<https://mediakeuangan.kemenkeu.go.id/article/show/menakar-pembatasan-minuman-berpemanis-dalam-kemasan>

⁷Budi Hidayat et al., “Direct Medical Cost of Type 2 Diabetes Mellitus and Its Associated Complications in Indonesia,” *Value in Health Regional Issues* 28 (2022);

and business actors in accordance with established guidelines. This protection can foster expectations of benefits, especially for those who comply with the applicable governance and regulations.⁸ It is noted that 49 countries have imposed excise taxes on SSBs consumption (CISDI, 2022). The concern regarding the implementation of this policy is the fate of MSMEs, which will have to bear the burden of higher prices. However, in the UK, following the imposition of excise taxes on SSBs, the beverage industry began to reformulate its products to reduce sugar content in accordance with the regulations. Excise taxes have become an effective intervention in improving consumption patterns, aiming to reduce obesity and other non-communicable diseases (NCDs).⁹

Thus, the policy on SSBs excise tax serves a dual purpose, namely as an instrument to control consumption and as a source of development funding. Therefore, it is necessary to design a policy on the imposition of excise tax on SSBs that not only focuses on fiscal aspects but also prioritizes public health protection. Mr. Azas Tigor Nainggolan, the imposition of SSBs excise should not be solely an instrument for increasing state revenue, but also for protecting public health.¹⁰ If left uncontrolled, SSBs could become a silent killer for society in the future, This is in line with Indonesia's commitment to realizing the Indonesia Emas 2045 vision, which emphasizes the quality of human resources as the main capital for development, and supports the achievement of Sustainable Development Goal (SDG) 3, that is Good Health and Well-being, which targets an overall improvement in public health. However, is the imposition of excise tax on SSBs the only way to reduce SSBs consumption? Or are there alternative policies? And why has this policy continued to face delays and administrative challenges? Therefore, based on the introduction, there are several issues to be discussed, namely: how can government policy design on excise taxes for SSBs be designed in accordance with public interest theory, legal instrument theory, and legal certainty and how does the law facilitate the control of consumption of SSBs through various policy approaches?

This study utilized a qualitative methodology with a descriptive juridical approach to analyze the excise policy on SSBs in Indonesia. The research focuses on two main aspects: how policy design for SSBs can be formulated in accordance with the theories of public interest and legal instruments, and how the law facilitates the control of SSBs through various policy approaches. This study also employs comparative analysis by examining policies implemented in several other countries to assess the appropriateness and effectiveness of these policies in the context of their application to Indonesian society. Data collection was conducted through primary data obtained from an interview with Mr. Azas Tigor Nainggolan, as well as secondary data gathered

⁸Ricardo García Antón and Cihat Öner, "Public Health Taxes: Should Sugar-Sweetened Beverages Be Taxed? If So, How?," *World Tax Journal* 15, no. 4 (2023).

⁹<https://www.kompasiana.com/azastigornainggolan3093/685180ba34777c20632b2a12/cukai-mbdbk-untuk-melindungi-hak-hidup-sehat-rakyat?>

¹⁰<https://www.kompasiana.com/azastigornainggolan3093/68735e99ed641520b8061342/alpen-si-pejuang-ikut-aksi-dukung-cukai-mbdbk?>

from various sources, including papers, journal articles, scientific works, electronic mass media, and other relevant literature, including previous research. The research procedure involved collecting, reviewing, and analyzing the contents of documents to identify the policy design developed by the government aimed at reducing the circulation of SSBs.

B. The Government's Policy Design on the Excise Taxes for Sugar-Sweetened Beverages Can Be Designed in Accordance with Public Interest Theory, Legal Instrument Theory, and Legal Certainty

The government's policy framework regarding the imposition of excise tax for SSBs represents a fiscal instrument primarily designed to support sustainable development. The discourse on applying an excise tax to SSBs has been ongoing since the amendment to the excise law was enacted in 2007. Article 2, paragraph (1) of Law Number 39 of 2007 states that the criteria for goods that can be subject to excise tax are goods whose consumption needs to be controlled, whose distribution needs to be monitored, whose use has negative impacts, or whose use requires state collection for the sake of fairness and balance. From a normative standpoint, SSBs clearly meet the requirements for excise goods due to their nature, which has the potential to cause serious negative impacts.

The discourse on imposing excise tax on carbonated and sweetened beverages began to intensify in 2008, but did not result in a concrete legal instrument.¹¹ At that stage, the policy idea remained largely within the realm of academic recommendation. The idea became more concrete in 2016 when the Directorate General of Customs and Excise under the Ministry of Finance officially proposed the inclusion of SSBs as a new excisable good. The Ministry of Finance at that time proposed an excise tariff of between IDR 1,000.00 and IDR 5,000.00 per liter. This proposal was driven by the state's need to increase excise revenue, which was targeted to reach IDR 186.52 trillion in the 2016 State Budget, while simultaneously addressing public health concerns. A member of Commission XI of the Indonesian House of Representatives (DPR RI) asserted that SSBs met the criteria of Article 2 paragraph (1) of the Excise Law and are therefore subject to excise tax. Thus, since 2016, a policy window has been available to the government for implementing this, but its realization has been delayed due to the lack of immediate establishment of implementing regulations.

The postponement was once again carried out by the government in 2025, despite the fact that regulations on the excise tax of SSBs should have already been issued, considering that the legal basis had been established in the form of Presidential Decree (Keppres) Number 4 of 2025 concerning the Program for the Preparation of Government Regulations (Progsun) on Excise Tax in the Form of SSBs. This

¹¹Marlia Eka Putri, Eka Deviani, and Ati Yuniati, "Legal Perspective of Tax Evasion on The Sale of Imported Goods Through Personal Shopper Service and The Efforts To Minimize It on Behalf of Public Revenue," *International Conference on Social Sciences (ULICoSS)*, no. November (2020).

Presidential Decree stipulates that each Progsun must be completed within a maximum period of one year. Consequently, if the Presidential Decree was enacted in January 2025, then by January 2026 at the latest, the Government Regulation on SSBs excise tax should have been issued. Failure to do so would constitute a violation of the Presidential Decree itself. However, according to an interview with Mr. Azas Tigor Nainggolan, the excise policy on SSBs has been continuously delayed in Indonesia due to industry intervention that has hampered the process. The industry often cites reasons such as difficult economic conditions and the potential for layoffs. In fact, there have been no significant reports of layoffs in the SSBs industry. The industry's arguments appear to be a strategy to protect its own interests. If the government succumbs to industry intervention, its role as the protector of the public's interests will be called into question. The state should be there for the welfare of the broader society, not merely act as a protector of industry interests.

The application of the excise tax on SSBs has finally been agreed upon by the government and DPR RI, and will take effect in 2026. This agreement was announced at the 2026 Draft State Budget (RAPBN) deliberation meeting on August 25, 2025. The government projected an increase in excise revenue targets to IDR 334.6 trillion, incorporating the SSBs excise as part of the fiscal framework. According to the Financial Note of the 2026 State Budget, the government emphasized that the primary purpose of the SSBs excise tax policy is to control the consumption of products that have adverse health effects and to promote longer, healthier lives. This policy implements Government Regulation No. 28 of 2004 concerning Food Safety, Quality, and Nutrition, which derives its mandate from Law No. 36 of 2009 on Health. Therefore, the overarching foundation of this policy is rooted in public health considerations. The SSBs excise tax should not be viewed merely as a fiscal measure but as an instrument of legal enforcement in the field of public health. Its fundamental purpose lies in safeguarding and improving the health of the Indonesian population, underscoring the government's responsibility to prioritize public welfare over economic interests.

Roscoe Pound stated that law functions to protect the interests recognized and upheld by society.¹² The three interests that must be protected by law are public interest, individual interest, and interest of personality. The scope and content of these interests are not absolute, but rather continue to evolve in line with societal developments, varying over time and in response to changing conditions. The theory of public interest in the context of state administrative law and public policy emphasizes that regulations must be made by the state to protect and advance the interests of the broader community, not just a select few groups or the government.

¹²Lawrence M. Friedman, *The Legal System of Social Science Perspective* (New York: Russel Sage Foundation, 1975); Michael Giudice and Brian Z. Tamanaha, "Socio-Legal Positivism and a General Jurisprudence," *The Methodology of Legal Theory* 21, no. 1 (2018): 457-88; Suad Fikriawan, Syamsul Anwar, and Misnen Ardiansyah, "The Paradigm of Progressive Judge's Decision and Its Contribution to Islamic Legal Reform in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (2021): 249-66.

Public interest, in the context of public law, encompasses health, social order, and the fiscal sustainability of the state. When linked to Article 28H of the 1945 Constitution of the Republic of Indonesia, which guarantees every person's right to a healthy environment, the SSBs excise tax can be seen as a manifestation of the state's responsibility. Normatively, there is a close correlation between the theory of public interest and constitutional responsibility.

The implementation of the excise instrument on SSBs is inherently linked to this theory, as excessive sugar consumption has been empirically proven to cause significant adverse effects on public health. However, despite the policy discourse that has persisted since 2016, the government has repeatedly included projected revenue from SSBs excise in the draft state budgets, for instance, IDR 4.38 trillion in the 2024 RAPBN, yet its realization has consistently been postponed. The state must play an active role in protecting its citizens, particularly in regulating the circulation of SSBs, which pose threats to both public health and life expectancy. Oversight and control through SSBs excise tax serve as mechanisms for the state to uphold the public interest namely, the protection of health and the sustainability of human life.¹³ From the perspective of the public interest theory, the government's repeated delays in implementing this policy can be critically viewed as a form of inconsistency in fulfilling its constitutional obligation to safeguard the people's health. Postponing implementation effectively means postponing the realization of public health benefits that the policy seeks to achieve.

Law as a tool of social engineering or legal instrument theory posits that law is not only formed for the benefit of society, but also as a tool for social renewal. Law is used as a tool to achieve policy objectives. This theory emphasizes that law serves as a means of influencing social behavior through regulatory mechanisms. This means that this theory demands that the excise policy not remain merely an idea, but be realized as a positive, operational legal norm, complete with implementing regulations, monitoring mechanisms, and periodic evaluations. Legal instruments must be legal, rational, and proportional. Policies must have a valid legal basis, pursue clearly defined objectives, and impose burdens that are proportionate to the benefits achieved.¹⁴

In contrast to the theory of public interest, when examined through the lens of the theory of legal instruments, the delay in policy implementation can be interpreted as the government's exercise of caution to ensure the readiness of implementing regulations and the administrative feasibility of fiscal measures. The theory of legal instruments emphasizes that policy design must not only be normatively legitimate, but also technically effective and consistently enforceable. In this context, the government must carefully determine which beverage products should be subject to

¹³Abdullah Ehjelah, "Criminal Modus Operandi in Bahraini Tax Law No. (40) of 2017," *Pakistan Journal of Criminology* 15, no. 4 (2023).

¹⁴Katrina Velasquez et al., "Dietary Supplements for Weight Loss: Legal Basis for Excise Tax and Other Government Action to Protect Consumers from a Public Health Menace," *American Journal of Law & Medicine*, 2022.

excise. One viable approach, as suggested by UNICEF (2019), is classification based on product type, where all non-alcoholic beverages containing added sugar or artificial sweeteners may be subject to excise. These include packaged fruit or vegetable juices, sweetened bottled teas, and flavored drinks. Proper product categorization is crucial in preventing producers and consumers from shifting toward substitute products that continue to pose health risks, thereby ensuring that the policy achieves its intended regulatory and public health objectives.

In terms of policy design, in 2020, the government once again formulated several technical schemes that indicate a more concrete direction for regulating SSBs' excise tax. First, the Ministry of Finance proposed a volume-based tariff policy, under which SSBs would be subject to an excise rate of IDR 1,500 per liter, while concentrated sweetened beverages would face a higher rate of IDR 2,500 per liter of concentrate.¹⁵ The purpose of this volume-based tariff structure is to ensure that retail prices increase proportionally to the amount of sugar content, thereby discouraging excessive consumption among the public. Second, the policy introduces differentiated tariffs based on production type, aimed at preventing substitution practices in which consumers might switch from one category of high-risk beverage to another that poses similar health hazards. This differentiated approach ensures that the excise policy remains comprehensive, equitable, and effective in achieving its dual objectives of public health protection and fiscal sustainability.

From a policy standpoint, the excise policy on SSBs has significant potential to generate substantial additional state revenue. From a social perspective, the policy functions as an instrument of social engineering, capable of reshaping public consumption behavior toward healthier choices. Thus, the design of Indonesia's SSBs excise tax policy must be understood through the integration of both the theory of public interest and the theory of legal instruments. Normatively, the policy is legitimate and fully consistent with the criteria outlined in the Excise Tax Law. However, in practice, its implementation continues to face persistent delays, despite policy discussions dating back to 2008. These delays primarily stem from competing interests and the slow progress in enacting the necessary implementing regulations, reflecting the tension between normative commitment and administrative execution in Indonesia's policy landscape.

According to Lawrence M. Friedman's legal system theory, there are three elements that determine the functioning of law, namely legal substance, legal structure, and legal culture.¹⁶ Legal certainty is not sufficient with only the substance of written regulations, but also requires effective enforcement by the legal structure and

¹⁵Natalia Arkhireiska, Iryna Panaseyko, and Mykola Panaseyko, "Features Of The Tax Policy Of Ukraine In The Current Conditions And Ways Of Its Improvement," *Scientific Opinion: Economics and Management*, no. 3(79) (2022).

¹⁶Lawrence M. Friedman, *Impact How Law Affects Behavior* (England: Harvard University Press, 2016); Soerjono Soekanto, *Sosiologi: Suatu Pengantar* (Jakarta: Raja Grafindo Persada, 2010); Reza Banakar, *Law Through Sociology's Looking Glass: Conflict and Competition in Sociological Studies of Law*, in <https://www.researchgate.net/publication/228135590> Retrieved on 29 January 2016, 1987.

acceptance within the culture of society. In the context of SSBs excise tax policy, the main problem of delay is not in the substance of the law, because the legal basis is already clear through the Health Law, Food Government Regulation, and Presidential Decree. However, legal certainty is weakened by inconsistent enforcement structures, such as those hampered by industry intervention that deliberately undermines implementation. This is similar to the case of cigarettes, which already have excise regulations but are not consistently enforced, resulting in the absence of a robust legal culture in Indonesian society. As a result, a legal culture has not been formed in society, sugar consumption remains excessive, and legal certainty is lost. According to Lawrence, laws will be effective if three elements work together: good substance, a strong enforcement structure, and a formed and supportive community culture. If the state is not firm in enforcing regulations due to industry intervention, then the SSBs excise tax policy will only become a fiscal instrument, not a health instrument, and this clearly contradicts the purpose of the law itself.

In essence, all regulations in Indonesia are based on the same fundamental principle, namely Pancasila. As the philosophical foundation of the nation, Pancasila. As the philosophical foundation of the nation, Pancasila functions not only as an ideology but also as a guiding principle in the formulation of state policy. This aligns with the concept of the Four Pillars of National and State Life promoted by the MPR RI, namely Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and *Bhinneka Tunggal Ika*. Of these four pillars, Pancasila occupies the most fundamental position because it is the source of values, the source of law, and the moral guideline in the administration of Indonesian state affairs. Mahfud MD emphasized that Pancasila, as the foundation of the state, has legal implications, requiring state policies to maintain the nation's integrity and be tested for their compatibility with the values of Pancasila, so that they do not deviate from the nation's and state's goals.

In this context, the implementation of an excise tax on SSBs can be understood as a form of Pancasila's application, particularly its fifth principle, "Social Justice for All People of Indonesia." This policy should not be viewed merely as a fiscal instrument to increase state revenue but also as a regulatory measure to protect public health from the risks of non-communicable diseases caused by excessive sugar consumption. Ideologically, the policy represents an effort to realize justice in both the health and economic sectors. The treatment costs for non-communicable diseases are substantial and are ultimately borne collectively by all Indonesians through the national health insurance system, such as the BPJS. This situation creates a persistent form of injustice if the government fails to act decisively, as the broader public must share the burden resulting from the excessive consumption habits of a portion of the population.

Through the excise policy, the state seeks to control excessive consumption, reduce the risk of non-communicable diseases, and ensure social justice. The plan to implement excise on MBDK shows the state's commitment to maintaining the sustainability of the Republic of Indonesia, even though its realization has been delayed

many times. Thus, the SSBs excise policy is not merely a fiscal instrument but a policy with strong philosophical, constitutional, and social dimensions, reflecting the state's commitment to the welfare of all Indonesian people.¹⁷

C. The Role of Law in Facilitating the Control of Sugar-Sweetened Beverage Consumption through Various Policy Approaches

The excise tax approach to SSBs is a commonly used policy instrument that has been implemented in various countries. However, there are also other legal instruments that do not place excise tax as the primary means of controlling consumption. These instruments include advertising restrictions, mandatory nutrition labelling, and restrictions on access to SSBs. The variety of consumption control policies indicates that different approaches are employed by countries. Therefore, it is crucial to evaluate the effectiveness of these various legal instruments and assess their suitability for Indonesia's social, economic, and legal conditions.

1. Excise Tax on SSBs

a. Thailand

In 2016, the National Reform Steering Assembly (NRSA) initiated a committee to address health issues through the implementation of excise policies. The NRSA proposed a 20% excise tax on beverages containing 6-10 grams of sugar per 100 ml and a 25% excise tax on beverages containing more than 10 grams per 100 ml. In 2017, the policy was implemented with the assistance of non-governmental organizations, the Ministry of Health, and the Ministry of Finance. The government set specific tariff targets to be achieved through tariff adjustments every two years.¹⁸

Thailand applies ad valorem tariffs, which are calculated as a percentage of the value of the goods. For example, if the tariff is 10% and the goods are valued at Rp 100,000,000, then the excise tax payable is Rp 10,000,000.¹⁹ This differs from specific tariffs, which are tariffs imposed per unit of goods, for example, Rp500 per liter. The tariffs offered by the Thai government are;

- 1) 10 % tariff for fruit and vegetable juices;
- 2) 14 % tariff for artificial mineral water, soda water, soft drinks with or without sugar, sweeteners, and other flavorings;

There is also an additional tax for beverages containing more than 6 grams of sugar per 100 ml, namely;

- 1) One Baht per liter for beverages containing 6-8 grams of sugar per 100ml;
- 2) Three Baht per liter for beverages containing 8-10 grams of sugar per 100ml;

¹⁷Dwi Putra Nugraha, "Memaknai (Kembali) Empat Pilar Kehidupan Berbangsa Dan Bernegara Indonesia," *Law Review* XII, no. 3 (2013).

¹⁸Linh Luong and Linh Hoang Vu, "Impacts of Excise Taxation on Non-Alcoholic Beverage Consumption in Vietnam," *Sustainability (Switzerland)* 12, no. 3 (2020).

¹⁹<https://ortax.org/pengenaan-pajak-minuman-berpemanis-di-asia-tenggara>

3) Five Baht per liter for beverages containing more than 10 grams of sugar per 100ml.

Thailand has issued a policy stating that herbal drinks, tea, and coffee sold in shops and by street vendors are exempt from excise tax. Thailand also has relatively low tariffs compared to other countries in Southeast Asia. This is due to concerns about job losses and the impact on retail prices.

As a result, during the 2017-2019 period, there was a 2.5% decrease in the consumption of SSBs. Additionally, there was a 17.7% decrease in the consumption of carbonated beverages and an increase in the consumption of sugar-free SSB products.²⁰ According to national research, sugar consumption among the population decreased by 30%, from 23g/person/day in 2017 to 16g/day/person in 2021.²¹ It can be concluded that Thailand has succeeded with its policy of gradually increasing excise taxes, in an effort to consider the fate of MSMEs and also health. The data above proves that the implementation of SSBs excise taxes is effective.

b. Philippines

The application of excise tax on SSBs, driven by health issues such as obesity and non-communicable diseases (NCDs), is similar to Thailand's policy, which is a collaboration between the Ministry of Health and the Ministry of Finance that has been proposed since 2017. The Philippine government immediately drafted a law called the Tax Reform for Acceleration and Inclusion (TRAIN). In 2018, the application of excise tax on SSBs was officially enforced.²²

The Philippines applies excise tax rates based on product volume, per liter, with the aim of simplifying the excise tax administration process. The types of SSBs subject to excise tax are caloric and non-caloric sweeteners, excluding milk, 100% natural fruit juice, and 3-in-1 coffee. The Philippines has only two categories, namely;²³

- 1) Six pesos per liter for caloric and non-caloric sweetened beverages;
- 2) Twelve pesos per liter for beverages containing high fructose corn syrup.

The implementation of this relatively simple excise tax is intended to avoid resistance from industry. Many parties also reject this policy because they believe that SSBs are a way for the lower-middle class to meet their nutritional needs.²⁴ The excise tax is considered to be beneficial to the upper-middle class and the state, rather than addressing health issues.

²⁰<https://documents1.worldbank.org/curated/en/397481548340562764/pdf/Lessons-Learned-from-Thailands-Obesity-Prevention-and-Control-Policies.pdf>

²¹<https://www.czapp.com/archive/do-sugar-taxes-work/>

²²<https://cdn.cisdi.org/reseach-document/fnm-Penerapan-Cukai-Minum-an-Berpeamanis--dalam-Kemasan-di-Asia-Tenggara---Pembelajaran-untuk-Indonesiapdf-1678177281174-fnm.pdf>

²³Shyam, S., Misra, S., Chong, M. H., & Don, R. (2019). Developments in the implementation of sugar-sweetened beverage tax in Malaysia - A narrative review. *Review Article*.

²⁴Putri, Deviani, and Yuniati, "Legal Perspective of Tax Evasion on The Sale of Imported Goods Trough Personal Shopper Service and The Efforts To Minimize It on Behalf of Public Revenue."

In practice, there has been an 8.7% decline in SSBs sales in grocery stores. This data has prompted several restaurants to discontinue free SSBs refills. This data leads to two conclusions: it is good for health policy, as it discourages SSBs consumption through taxation, but bad for MSMEs which have experienced a decline in sales. According to the Philippine government, the implementation of SSBs excise taxes could prevent 5.913 deaths from type 2 diabetes mellitus, 10.339 deaths from ischemic heart disease, and 7.950 deaths from stroke, along with health cost savings of 31.6 billion Pesos (US\$ 627 million) and additional state revenue of 41.0 billion Pesos per year.²⁵

c. Malaysia

The 2016 WHO Regional Technical Meeting assessed that, among other countries, Malaysia was ready to implement excise tax on SSBs. The government considered this decision in November 2018 and subsequently began to formulate a policy, which was announced by the Ministry of Finance. In July 2019, the excise tax was finally implemented after the Customs Department conducted public awareness campaigns.²⁶

Malaysia implements a specific excise tax system based on volume. Beverages subject to excise tax are carbonated, non-alcoholic beverages (milk containing sugar, fruit or vegetable juice) and flavored beverages. The policy has an exception for fruit and vegetable juices with a sugar content of <12g. The rates offered by the Malaysian government are;

- 1) MYR 0.4 per liter for carbonated beverages with sugar >5g/100ml;
- 2) MYR 0.4 per liter for milk-based beverages with sugar >7 g/100ml;
- 3) MYR 0.4 per liter for fruit or vegetable juices with added sugar >12 g/100ml.

The Malaysian government has given the industry two months to adapt to the new policy. In addition to the Ministry of Finance, this policy is a collaboration with the Ministry of Domestic Trade and Consumer Affairs. This is because the SSBs excise tax also applies to beverages imported from abroad. The Malaysian government faces different challenges from those in the Philippines and Thailand, where Malaysia must promote a healthy lifestyle to achieve the effectiveness of the program, as well as address the concerns of MSMEs that fear price increases will drive away customers.²⁷

Malaysia itself provides assistance and is willing to respond to technical issues during the transition process, enabling the industry to adapt to the applicable regulations. The Malaysian government recommends reformulating SSBs to reduce their sugar content. The application of excise tax on SSBs is predicted to contribute to

²⁵<https://cdn.cisdi.org/research-document/fnm-Penerapan-Cukai-Minuman-Berpeamanis--dalam-Kemasan-di-Asia-Tenggara---Pembelajaran-untuk-Indonesiapdf-1678177281174-fnm.pdf>

²⁶Putri, Deviani, and Yuniati, "Legal Perspective of Tax Evasion on The Sale of Imported Goods Through Personal Shopper Service and The Efforts To Minimize It on Behalf of Public Revenue."

²⁷Sirinya Phulkerd et al., "Changes in Population-Level Consumption of Taxed and Non-Taxed Sugar-Sweetened Beverages (Ssb) after Implementation of Ssb Excise Tax in Thailand: A Prospective Cohort Study," *Nutrients* 12, no. 11 (2020).

a 9.25% reduction in SSBs consumption and increase state revenue by 357 million Malaysian ringgit.²⁸

Unfortunately, this policy does not yet target sweetened beverages served directly, such as teh tarik. As a result, people are substituting SSBs beverages with local beverages and other sweet foods. As a country that has recently created an SSBs policy, Malaysia has been successful in reducing excessive sugar consumption while continuing to prioritize MSMEs in the country.²⁹

2. Mandatory Nutrition labeling, advertising restrictions, and access limitations

a. Singapore

The policy implemented is called Nutri-Grade, which aims to help consumers make informed choices about the beverages they consume while encouraging producers to adjust sugar levels in their products. This labeling scheme, already in effect in Singapore, assigns grades from A to D, where A indicates low sugar and saturated fat content, and D indicates high levels. Beverages graded C and D are required to display the Nutri-Grade label on the front of the package, as well as in online sales and vending machines. Moreover, advertisements for beverages with a D rating are restricted. In this way, consumers can easily identify the health risks associated with sugary beverages, while producers are motivated to reduce the sugar content to achieve healthier product categories.

Through a simple classification system of letters and colors, the government has successfully raised consumer awareness of the health risks associated with high-sugar beverages while embedding health considerations into commercial practices. The effectiveness of Nutri-Grade lies in the consideration of commercial practices. The effectiveness of Nutri-Grade lies in the combination of mandatory labeling, advertising restrictions, and product reformulation incentives, which push the industry to innovate towards healthier beverages. Thus, Nutri-Grade serves not only as a consumer protection mechanism, ensuring access to accurate, transparent, and measurable information, but also as a public instrument aimed at addressing a structural issue: the high prevalence of non-communicable diseases associated with modern consumption patterns.³⁰

b. Chile

Efforts to limit children's access to SSBs in Chile are implemented through a comprehensive and multidimensional policy framework. The Chilean government not only restricts SSB advertisements on television but also extends regulations to outdoor

²⁸Phulkerd et al.

²⁹Jeffrey Hughes, Kevin Orr, and Mazlan Yusoff, "Strategizing for Grand Challenges: Economic Development and Governance Traditions in Malaysian Local Government," *International Review of Administrative Sciences* 89, no. 2 (2023).

³⁰<https://cdn.cisdi.org/reseach-document/fnm-Ringkasan-Kebijakan-Urgensi-Implementasi-Kebijakan-Cukai-Minuman-Berpemanis-Dalam-Kemasan-MBDK-di-Indonesiapdf-1674995915344-fnm.pdf>

media, such as billboards and posters near schools, and limits in-store promotional strategies specifically designed to attract children's attention. These restrictions include various marketing techniques proven effective in shaping children's consumption behavior, such as the use of characters, mascots, or child-friendly visual elements.

Pre-and post-policy studies indicate that restricting children's exposure to television advertising has led to a 1.6-10.9% reduction in SSB consumption, suggesting that TV ad regulation alone has a measurable impact-especially when combined with other measures. The policy also introduced front-of-package nutrition warning labels that flag products high in sugar, salt, or saturated fat, allowing children and parents to make more informed health decisions. This approach distinguishes Chile's policy from that of many other countries, as it not only regulates advertising but also strengthens consumer awareness of nutritional quality.

Furthermore, Chile explicitly bans marketing techniques children use, such as the use of popular characters, making sugary products less appealing to young audiences. The policy also imposes time-based restrictions on the broadcast of SSB advertisements to minimize exposure during peak hours of children's viewing. Compared to other countries, such as the United Kingdom, where restrictions on licensed characters in ads are voluntary, and nutrition labels use color codes rather than mandatory warnings, Chile's regulations are far stricter. Although long-term evaluations of the policy's impact are still limited, existing literature suggests that a comprehensive approach combining advertising restrictions, in-store promotion regulations, marketing bans, and warning labels has strong potential to reduce children's exposure to SSBs, influence food choices, and encourage healthier consumption patterns from an early age. Thus, Chile's policy stands as a proactive and holistic example of food regulation designed to protect children's health (Trijayanti & Gani, 2023).³¹

c. United States (Philadelphia)

In Philadelphia, policies to limit children's access to SSBs have been implemented through several public interventions. One notable initiative is a mass media campaign launched by the Philadelphia Department of Public Health. This campaign used public service advertisements on television to educate parents and caregivers about the importance of reducing SSB consumption to prevent childhood obesity. A study evaluating the campaign found that exposure to these messages significantly increased parents' and children's intention to replace SSBs with unsweetened beverages. The positive effects grew stronger over time and were

³¹Lupi Trijayanti and Ascobat Gani, "Efektivitas Kebijakan Pemasaran Iklan Makanan Dan Minuman Tidak Sehat Dalam Rangka Pencegahan Dan Pengendalian Diabetes Melitus: Literature Review," *Jurnal Ilmiah Kesehatan Masyarakat : Media Komunikasi Komunitas Kesehatan Masyarakat* 15, no. 1 (2023).

associated with an increased belief that reducing SSB intake could lower the risk of diabetes.

Additionally, Philadelphia introduced a soda tax in 2017, imposing a rate of \$0.015 per ounce on SSBs and other sweetened beverages. Research indicates that this tax has successfully reduced SSB consumption among children, particularly among heavy consumers. However, after two years of implementation, the excise tax impact had not yet resulted in significant long-term behavioral changes. These policies demonstrate that multifaceted approaches, combining mass media campaigns and fiscal policies such as excise taxes, can effectively reduce SSB consumption among children. Nonetheless, achieving more substantial and sustained change requires a broader and continuous combination of policies to ensure long-term effectiveness.³²

When compared to Indonesia's geographical, social, and economic conditions, the implementation of excise taxes on SSBs represents a more appropriate legal instrument than non-fiscal measures such as nutrition labeling, access restrictions, or advertising bans. This is because excise taxes offer dual benefits; they serve as a fiscal tool that contributes to state revenue while simultaneously controlling consumer behavior through a coercive mechanism. Moreover, excise-based regulation is the most effective means of influencing both society and industry. The beverage industry, in particular, must be willing to reformulate SSB products to deliver greater public health. Given that SSB consumption in Indonesia has reached a complex stage and consumption in Indonesia has reached a complex stage and contributes to excessive health complications, reliance on a single legal instrument is insufficient. Non-fiscal approaches, such as labeling, access control, or advertising restrictions, still allow individuals to freely choose to consume SSBs. Referring to the fifth principle of Pancasila, "Social Justice for All of the People of Indonesia," the state bears the responsibility to ensure prosperity, justice, and well-being for every citizen. In this context, excessive consumption habits must be regulated, as they contribute to serious health problems that eventually burden both society and the state through increased healthcare costs driven by overconsumption.

However, other legal instruments, such as the use of nutrition labels, access restrictions, and advertising, can serve as additional policies to support excise taxes. According to our source, Mr. Azas Tigor Nainggolan stated that fiscal policies must be supported by non-fiscal policies, and the two cannot be separated in order to achieve maximum results. This will encourage the public to be more aware of sugar consumption in each beverage.³³ By combining various policies with excise taxes, this approach aligns with the principles of fairness and consumer protection, which are based on proportional regulatory mechanisms. SSBs policies require time to be

³²Vivica I. Kraak et al., "How Have Media Campaigns Been Used to Promote and Discourage Healthy and Unhealthy Beverages in the United States? A Systematic Scoping Review to Inform Future Research to Reduce Sugary Beverage Health Risks," *Obesity Reviews*, 2022.

³³<https://www.kompasiana.com/azastigornainggolan3093/68735e99ed641520b8061342/al-pen-si-pejuang-ikut-aksi-dukung-cukai->

assessed for effectiveness, and Indonesia should implement policies that prioritize health and the economy in order to achieve the Indonesia Emas 2045 vision.

D. Conclusion

The design of the excise tax policy on SSBs in Indonesia reflects the government's effort to balance fiscal interests with the protection of public health. The SSB excise tax aims to shift consumer behavior toward healthier consumption patterns. Based on the theory of public interest, this policy represents the state's constitutional responsibility, as mandated by Article 28H of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen's right to a healthy environment and life. The SSB excise tax also serves as a means to realize social justice, as stated in the fifth principle of Pancasila. Thus, the policy carries strong philosophical, constitutional, and social dimensions. However, the effectiveness of the SSB excise policy will largely depend on the readiness of Indonesia's legal structure, the substance of its regulations, and the prevailing legal culture in society. The repeated delays in implementation since 2016 indicate ongoing tensions between state and industry interests, which risk undermining the law's role as an instrument of social change.

Comparative studies with other countries have shown that the implementation of SSB excise taxes has proven effective in reducing sugar consumption, improving public health, and maintaining the competitiveness of small and medium-sized enterprises (SMEs) through well-designed transitional policies. Meanwhile, non-fiscal measures such as mandatory nutrition labeling and advertising restrictions have also yielded positive outcomes as complementary instruments to fiscal policy. Therefore, for Indonesia's SSB excise policy to be effective, the government must ensure that its legality, rationality, and proportionality are properly balanced. The excise tax should be integrated with non-fiscal measures, such as nutrition labeling and public education, to build consumer awareness. In this way, the policy will not only enhance state revenue but also serve as a concrete step toward achieving social justice, sustainable public health, and national well being paving the way toward the Indonesia Emas 2045 vision.

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