8-19-2011

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Recommended Citation
DOI: 10.20476/jbb.v17i3.747
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Policy Review on Restaurant Taxes Levied on Warung Tegal in DKI Jakarta

ARIFIN SUKMANA
Pelita Bangsa College of Economics, Bekasi, West of Java

Abstract. The study analyzes the restaurant tax levied on Warung Tegal\(^1\) in DKI Jakarta and provides solutions for such. Descriptive-qualitative approach (Creswell, 2009) is used, employing both interview and library research. Results suggest that restaurants of every type, including Warung Tegal, have been taxed since 2003. The controversy was caused by negligence of excise officers in socializing the law and blow-ups by the media. The feared concomitant problems of the policy enactment are: revenue threshold exempted from the taxes is too low and the collection system is inefficient. The solutions proposed are raising the threshold and implementing the official assessment system to assess the amount of accrued taxes.

Keywords: restaurant tax, warung tegal

INTRODUCTION

In Indonesia, taxes, by virtue of the collectors, are classified into Central Taxes and Local Taxes. By virtue of Article 1, section (1), Law No. 28 of 2009 on Local Taxes and Levies, Local Taxes are mandatory contributions to the Local Government at which place an individual or an institution is living, and is mandatory by Law, and said contributions are not reimbursed directly and shall be used for the interests of the Local Government with the intention of improving the welfare of the people. The definition indicates that taxpayers do not enjoy direct benefits from the tax they pay. However, Ismail (2007) states that the definition is derived from old paradigms and is not appropriate with the spirit of district autonomy: to improve public services for the Indonesian people as mandated by the preamble of the 1945 Constitution. The paradigm disrupts tax regulations balance in Indonesia, in that tax burden of the taxpayers and services provided in return is not proportionate. What taxpayers should receive “in return” from the levied taxes are proper services in relevant goods and service provided.

Local Taxes are a consequence of fiscal decentralizations required for state autonomies, thus obliging Local Governments to fund their own governments and development using their own resources. As such, Local Governments have to look for new revenue sources (Hamid, 2003). The ability of the governments in finding Local Own Source Revenues determines its autonomy, i.e. it is a decisive factor in the shaping of local governance (Maziardi, 2001).

Davey (2005) states that Local Taxes are important due to two reasons: first, the power to set tax tariffs allows Local Governments to adjust their expenses; and, second, assessing accrued taxes allows the Local Governments to spend their revenues accurately.

As a component of Local Own Source Revenue, Local Taxes is potential as the greatest revenue contributor. Based on the authority who levies tax, Local Taxes are grouped into two types: Provincial Taxes and Municipal Taxes. By virtue of Law No. 28 of 2009, Provincial Taxes are Vehicle Tax (PKB), Vehicle Ownership Transfer Fee (BBNKB), and Vehicle Fuel Tax (PBBKB); whereas Municipal Taxes are Hotel Tax, Restaurant Tax, Entertainment Tax, Advertisement Tax, Street Lighting Levy, Non-Metal Minerals and Rocks Tax, Parking Tax, Groundwater Tax, Swallow Nest Tax, Land and Building Title Acquisition Fee (BPHTB), and Rural and Urban Property Taxes (PBB P2).

Referring to the principles of district autonomy, government innovation is required in finding and creating Local Own Source Revenues. Fajar (2005) states that the government efforts to increase state revenue by means of taxes and taxation policies have to be proportionately quantified in order to prevent distortion of the national economy (Firmansyah, 2010). One of the policies carried out by the Government and the House of Representatives was to amend Law No. 34 of 2000 on regional taxes and retributions into Law No. 28 of 2009 on local taxes and levies.

The amendment was a strategic and fundamental step in harmonising the ideal financial balance of the

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\(^1\) Warung Tegal is a kind of dry stall providing inexpensive meals.
central and Local Governments. Law No. 28 of 2009 is expected to increase Local Own Source Revenues and provide favourable investment climate by refining local taxes and levies methods, granting authorities to Local Governments in levying taxes, improving control effectiveness, and ameliorating revenue of various taxes and retributions (www.djpk.depkeu.go.id, 2009).

The major amendments of the Law are: 1) authority to collect only listed taxes in the law (closed list); 2) expansion of taxed goods and services; 3) discretion in tariff resolutions; 4) tax collection supervision and sanctions thereof; and, 5) Local Taxes amendments. One of the expanded taxed goods and services is Restaurant Tax. Restaurants are potential businesses as the number of restaurants in DKI Jakarta is always on the increase. Eating, as a basic need, must be fulfilled immediately. Moreover, with the improvement of economic conditions, and, with it, lifestyle, eating is no longer a basic need, but a lifestyle.

Such can be seen in the increasing number of restaurants and similar services. As seen in Figure 1, there are at least 5,040 restaurants in DKI Jakarta alone in 2008. The figure is significantly larger compared to the number of hotels or other forms entertainment centres.

In addition to its sheer number, revenue from restaurant tax is substantial. In 2009, revenue from restaurant tax in DKI Jakarta is Rp 753.42 billion.

Based on Table 1, it is seen that restaurant tax contribute to the third largest amount, behind Vehicle Ownership Transfer Fee and Vehicle Taxes. Moreover, revenue from restaurant tax has the tendency to increase. In Figure 2, revenue from restaurant tax increases from Rp 335,038,393,736 in 2005 to Rp 753,421,432,780 in 2009.

The figure proves that the gourmet industry in DKI Jakarta is promising. Marsum (1999) and Palacio and Theis (1997) state that the reasons behind the rise of the gourmet industry are: 1) tremendous and ever-rising market potential; 2) development of food processing, systems, control, and equipment; 3) rise of the travelling culture, more leisure time, and various other reasons to eat out; 4) large profit margin; 5) changes in women’s status as workers; 6) rise in the number of single-person households and the potential to eat out; 7) public attention to health and wellbeing (elibrary.mb.ipb.ac.id, 2010).

Compared to other countries, Indonesia imposes high restaurant tax tariffs. In Japan, for example, such tax is known as Consumption Tax with 5% of tariff, where 4% is allocated for the central government and the remainder for the Local Government (www.iadvisory.gov.sg, 2008). In Singapore, such tax is known as Goods and Services Tax (GST) with a tariff of 7% (Chan, 2009). Both taxes are consumption-based taxes whose principles are similar to that of the Value-Added Tax (VAT), a system which recognizes revenue and expenses tax (Chan, 2009). Differing from Indonesia, consumption taxes in both countries are levied by the Central Government and the revenue from such is shared with Local Governments.

By virtue of Law No. 28 of 2009 on local taxes and levies, restaurant tax is derived from services provided by the restaurant. The services cover food and/or beverages consumed by the customers. Article 1 Section (6) from the Local Regulation No. 8 of 2003 on Restaurant Tax define restaurants as “places where food and/or beverage consumed are charged with fees and exclusive of catering businesses.” The expanded definition of restaurants according to Law No. 29 of 2009 is that “Restaurants are facilities providing food and/or beverage at certain fees, consisting of diners, cafeterias, canteens, food stalls (warung), bars, and similar facilities, and inclusive of catering businesses.”

The expanded definition includes diners, cafeterias, canteens, warungs, bars, and similar facilities, and inclusive of catering businesses. As a consequence of the amendment and as an effort to diversify Local Taxes revenue sources, the DKI Jakarta government passed a provision to Local Regulation No. 8 of 2003 on Restaurant Tax to regulate restaurant tax levies. The new regulation states that taxes are imposed on restaurants, including Warung Tegal, whose revenue is Rp 60,000,000 per year or Rp 167,000 per day.

According to Interviewee 1, the development of Warung Tegal in DKI Jakarta began from warungs opened by migrants from Tegal, Central Java. In the beginning, food and beverages sold were not rice,
but cassava, tea, coffee, and the likes. As progress goes, the type of food sold varied and finally rice and dishes were added to the menu. Warung Tegal is suitable and potential to be taxed as in 2010 alone there are at least 26,900 warung Te
gals in DKI Jakarta (mediaindonesia, 2010). In fact, a well-known Warung Tegal owner in DKI Jakarta earns Rp 2,500,000 per day, equalling to IDR540,000,000 per year (detiknews.com, 2010). Should the regulation is passed, Warung Tegal owners in DKI Jakarta must impose a 10% tax per transaction in accordance with restaurant tax tariff. Restaurant owners as Taxpayers have to collect, assess, and report taxes from the customers. The Local Regulation is the brainchild of the Local Legislative and Executive Body and passed by the Minister of Home Affairs, Gamawan Fauzi. The Regional House of Representatives of

<table>
<thead>
<tr>
<th>No.</th>
<th>Source of Revenue</th>
<th>Total</th>
<th>% (Local Budget)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Vehicle Tax</td>
<td>2,766,961,1</td>
<td>102.36</td>
</tr>
<tr>
<td>2</td>
<td>Vehicle Ownership Transfer Fee</td>
<td>2,542,533,32</td>
<td>103.78</td>
</tr>
<tr>
<td>3</td>
<td>Vehicle Fuel Tax</td>
<td>671,464,08</td>
<td>87.20</td>
</tr>
<tr>
<td>4</td>
<td>Hotel Tax</td>
<td>605,691,46</td>
<td>85.54</td>
</tr>
<tr>
<td>5</td>
<td>Restaurant Tax</td>
<td>753,421,43</td>
<td>100.15</td>
</tr>
<tr>
<td>6</td>
<td>Entertainment Tax</td>
<td>267,317,81</td>
<td>89.11</td>
</tr>
<tr>
<td>7</td>
<td>Advertisement Tax</td>
<td>274,908,21</td>
<td>86.00</td>
</tr>
<tr>
<td>8</td>
<td>Street Lightning Tax</td>
<td>412,478,85</td>
<td>101.10</td>
</tr>
<tr>
<td>9</td>
<td>Ground Water Utilization Tax</td>
<td>126,756,31</td>
<td>158.45</td>
</tr>
<tr>
<td>10</td>
<td>Parking Tax</td>
<td>138,601,88</td>
<td>199.00</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>8,560,134,48</td>
<td>99.36</td>
</tr>
</tbody>
</table>

Source: DKI Jakarta KPKD Office

Figure 2. Revenue from restaurant tax in Fiscal of 2005-2009
Source: DKI Jakarta KPKD Office

DKI Jakarta has also approved the tax leverage.

During socialization sessions held by the Local Government, the tax levy policy met fierce resistance from the public, especially Warung Tegal owners. The resistance of the Warung Tegal owners is represented by the Warung Tegal Cooperative (Kowarteg). The Cooperative states that Warung Tegal is a restaurant whose markets are low-income citizens and such, the tax levied would increase the burden of the customers. Support for Warung Tegal owners came from the public, the Chamber of Commerce and Industry chairman, and the Minister of Cooperative and Small Industries (www.iqbalfarabi.com, www.zonaberita.com, 2010). Interviewee 2 said that the term “Warung Tegal Tax” is not suitable for the snowballing controversy.

Based on the above, the aims of the study are: 1)
RESEARCH METHODS

The study employs descriptive-qualitative approach (Creswell, 1994) to illustrate the misunderstanding of public towards “restaurant tax levy on Warung Tegal” and concomitant issues rising from such and its proposed solutions. Data is collected from interviews and library research.

The interviewees are Warung Tegal owners, excise officers specializing in restaurant tax, and academicians. Interviewees are chosen using the purposive method and are expected to assist in modelling a thorough understanding of the issues based on experts’ perspective.

RESULTS AND DISCUSSION

A. Public Perception of “Warung Tegal Taxes”

As one of the largest source of revenue for DKI Jakarta, restaurant tax is sought to be increased every year. The reason is to improve current taxation administration and expand restaurant tax bases. The expansion is the result of the signing into law the Law No. 28 of 2009 on Local Taxes and Levies.

By virtue of Article 1, Section (23) of Law No. 29 of 2009, restaurants are “facilities providing food and/or beverage at certain fees, consisting of diners, cafeterias, canteens, warungs, bars, and similar facilities, and inclusive of catering businesses.” The provisional law defines “restaurants” in a broader sense. The definition also explicitly states that warungs are not the only type of tax-levied restaurants. Taking off from the inclusion of the word “warung,” the public is led to believe that Warung Tegal is part of the new restaurant tax bases.

The cause of the issue is elaborated by Interviewee 2. “During a socialization session of the new restaurant tax regulation, the definition of ‘restaurant’ includes the word ‘warung.’ Afterwards, one of the participants asked that if warungs are included, it follows that Warung Tegal are also imposed of the taxes. The answer by the excise officer at that time was ‘yes.’ From then on, the issue was blown-up by the media.”

The fact is that Warung Tegal and restaurants of any type are levied of the tax, as long as the restaurants’ revenues are within the set threshold. Since then, the public misunderstood the issue and believed that the tax is “Warung Tegal tax.” “There is no Warung Tegal Tax, only restaurant tax,” he said.

In other words, Warung Tegal is not a tax base for the new restaurant tax leverage. Warung Tegal has been taxed since the enforcement of Local Regulation No. 8 of 2003 on Restaurant Tax. Only, the term “warung” was not stated explicitly like that of Law No. 28 of 2009.

The point is proved in DKI Jakarta Local Regulation No. 8 of 2003 on Restaurant Tax, which defines restaurants as “places where food and/or beverage consumed are charged with fees and exclusive of catering businesses.” This definition means that any facility in which food/beverage is served and provided at a fee, including Warung Tegal, the facility may be considered as restaurants.

The main amendment of the definition of restaurant lays in the expansion of tax bases: addition of catering services. The facility previously was taxed under Value-Added Taxes and by virtue of Law No. 28 of 2009 it is classified under restaurant tax.

Another factor in the amended regulation differing to that of the previous regulation is revenue threshold exempted from restaurant tax. Law No. 8 of 2003 on Restaurant Tax states that among the exemptions of restaurant tax are restaurants or diners whose
revenue is less than Rp 30,000,000 per year, whereas the new regulation states that exempt restaurants or diners are those whose revenue is less than Rp 60,000,000 per year.

As such, the new regulation accommodates restaurant owners as the amount of minimum revenue is raised. The issue then moved to this: why is the new, more accommodating regulation much more controversial than the previous one? It is believed that the inclusion of the word “warung” in the new definition and lack of socialization sessions are the main causes. Moreover, the Local Government has yet to fully enforce the regulation.

The last statement is confirmed by Interviewee 2, who said that since the regulation was passed in 2003, the Local Government has yet to maximize its implementation due to several considerations. This causes the public to not realize that restaurant owners of any type (including Warung Tegal) whose revenues are more than Rp 30,000,000 per year are subject to restaurant tax. The public protested after the inclusion of the word “warungs” as one of the tax bases.

B. Concomitant Issues and Proposed Solutions

Implementation efforts of the new restaurant tax regulation met numerous issues. The issues surfaced due to drawbacks of the current taxation administration. Nasucha (2004:20-22) as quoted in Putranti and Yamin (2009) states that taxation administration in developing countries tend to plague with the issues of aged procedures, underpaid and poorly trained employees, complex taxation administration systems which lead to inefficiencies, unwillingness of the government to uphold the system, and environments allowing for rent-seeking. Several potential issues are highlighted and its solution proposed.

According to Interviewee 2, the first concomitant issue is related to revenue threshold exempted from taxes. The new threshold of Rp 60,000,000 per year is considered too low. The value, equalling to Rp 167,000 per day is certain to affect owners of small restaurants whose financial health are weak.

A criterion for a modern taxation system is neutral taxes (Nightingale, 2003). Neutral taxes mean that the taxes levied do not distort the economy and change the consumption patterns of the public. Restaurant tax with low threshold exempts is more likely to cause economic distortion. Although the Taxpayers are the restaurant owners, the Tax Subjects are consumers. Warung Tegal is commonly associated with restaurants for the lower-middle class people since 95% of its consumers are of low income or belong to the mentioned class (antaranews.com, 2010).

The issue causes anxieties among restaurant owners should the customers are not willing to pay the 10% tax. Even if the policy is forced into action, consumption patterns of the customers might change, in that they may turn to tax-free restaurants.

Concerning this issue, Interviewee 3 states that changes in consumption patterns depended on the elasticity of the goods, in this case, food. Should the food in question are sold at expensive restaurants, where the consumers are willing to pay regardless of the tax tariff, the goods is considered non-elastic. On the contrary, if the food in question is sold at small stalls, such as Warung Tegal, where the consumers are not willing to pay due to such taxes, the goods is elastic. Such consumers may switch to tax-free restaurants.

The statement above is acknowledged by Interviewee 1. He states that his customers complain should there are rises in food prices. Tax levies would burden the customers more and lower the purchasing power and public welfare.

Answering this issue, Interviewee 2 states that if the restaurant owners are concerned on customer loyalty, they may as well pay the taxes for their customers. He illustrated that, for example, a restaurant owner who has Rp 500,000 worth of tax due per month could set aside Rp 17,000 per day to meet that end. The amount would cover the taxes without imposing any burden on the customers within a month’s sale.

The proposal is possible, but Interviewee 3 said that profit margins of the restaurant owner must be taken into account. Warung Tegal owners tend to have a lower profit margin in comparison to the gross revenue. Should the owners are liable for the taxes; their profit would decrease and hamper the wellbeing of the owners.

Even before restaurant tax, Warung Tegal owners are in a tight spot caused by the amount they are liable on. Interviewee 1 states that Warung Tegal owners are in a dilemma since prices of the basic commodities for their business, such as chilli, rice, cooking oil, and whatnots continue to rise whereas food prices are kept at a minimum. He also said that the profits earned are deducted by waiters’ pay, monthly levies, and the property Tax in which they conduct business.

Taxation provides its own theory for the issue:
Even Distribution Theory. The theory states that fairness and appropriateness of a State in tax levies rests on the ability and capacity of its citizen, i.e. if the citizens are able to maintain their dependants and fulfil other costs before taxes.

On the one hand, the issues arise from an unfair taxation system. On the other hand, the government is unwilling to let go of the potentiality of this source of revenue. Interviewee 2 states that restaurant owners must contribute by means of taxes for the procurement of public services provided by the state in the forms of security, order and opportunity to start new businesses. This is underlined in the Benefit Principle.

Interviewee 2 exemplifies that the presence of Warung Tegal in DKI Jakarta requires the government to sponsor cleaning, security, and health services to support the continuity of the restaurants. The sponsorship is sourced from the Local Government funds and thus it is normal for Warung Tegal owners to contribute to the sponsorship.

To mediate the issue, there are several proposed solutions. Interviewee 3 supports restaurant tax leverage, on the condition that the revenue threshold exempted from taxation must be rationalized. The threshold is important in formulating a policy as it sets the bar on which goods and/or services could be taxed or not. Many small restaurant owners would be subject to tax if the profit threshold exempted from taxation is less than Rp 200,000 per day. The resulting effect is that the economic conditions of the public will be affected. Restaurant tax threshold exempt in accordance with the “economic” tax levies principle proposed by Seligman (Nurmantu, 2005). One of the principles of Economic is Innocuity, meaning that tax levies should not be economically destructive. In other words, the taxes burdened on Taxpayers should not hinder the State’s economic progress, production, or investment. By raising the revenue threshold tax exempt, restaurant owners are spared from tax burdens which might hinder their business.

Another proposal worth considering is adjusting tax tariff in response to restaurant classes. There are more than 2,000 restaurants in DKI Jakarta, ranging from high-classes restaurants to side street stalls (investor.co.id) whose customers are from different backgrounds. The 10% tax burden imposed on luxurious restaurants will be differed from that of Warung Tegal. Luxurious restaurant customers, with their high purchasing power, would not mind the tariff, as opposed to Warung Tegal customers. The proposal is possible as by virtue of Law No. 28 of 2009, the maximum restaurant tax tariff is 10%. Davey (2006) states that the freedom of the Local Government to levy different taxes tariffs in accordance with its budgets is the most important principle in fiscal decentralization.

The next anticipated issue is tax levies. By virtue of the DKI Jakarta Governorate Decree No. 22 of 2007 on Restaurant Tax Levies Instruction, collection is a series of undertakings starting from the taxable-object data collection, tax payer, tax assessment amounts, and finally the tax levies and supervision of its deposit. Previously, tax levies method enforced in accordance with Local Regulation No. 8 of 2003 is self assessment because Taxpayers assess, report, and pay the taxes themselves. Interviewee 3 believes that the self assessment method is inefficient, especially in terms tax collection and lack of obedience of small restaurants.

According to Adam Smith, there are four methods of tax levies, among which is efficiency (Nurmantu, 2005). The method is related to the supposedly low cost of tax levies. In other words, tax levies must be conducted as economically as possible. Such efficiency is required as taxes are not paid to the local internal revenue service directly, which is bureaucratically more efficient, and instead passes through restaurant owners first. To understand the obedience of the restaurant owners, inspections may be carried out. Interviewee 2 admits that restaurant tax levy is not taken seriously by the Taxpayers. There are numerous Taxpayers whose tax deposit is lower than the amount they should pay. Inspection costs would rise significantly if every small stall is inspected each month.

Bookkeeping by restaurant owners is also a raised issue. The self assessment method requires written documentation in the forms of bills and financial statements so that tax deposits can be inspected. However, many Warung Tegal owners do not have proper financial statements. Interviewee 1 said that for the forty years he works in the Warung Tegal business, he has never kept proper financial statements. As such, tax inspections will be more difficult.

The self assessment method requires the Taxpayers to assess their own accrued taxes despite the fact that most small restaurant owners are not familiar with tax regulations. A proposed solution is that the government has to give details of current tax regulations. Basically, elucidation of tax regulations is one of the forms of tax burden reduction which
can decrease distortion costs. Several taxation economists as quoted in Rosdiana (2008) believe that reduction of tax burdens will result in significant rises of productivity and growth.

One of the methods to elucidate tax regulations is by educating restaurant owners. Interviewee 2 states that there are current tax regulations education sessions organized by the government. However, increasing efforts to levy taxes on restaurant and small stalls owners increases the obligation of excise officers to educate the public.

The increase obligation is not proportional with the increase of adequate human resources. The task has to be carried out by a handful number of excise officers. This is in accordance with the details provided by Interviewee 4, who said that one of the difficulties of the DKI Jakarta internal revenue service is the insufficient number of available human resources relative to the number of taxpayers. Currently, fifteen excise officers have to serve four thousand taxpayers. This is a reason why potential revenue from taxes is not exploited well. The account is shared by Interviewee 2; the issue can be addressed by recruiting more excise officers.

The issues presented above are results of the self assessment method, which, in turn results in high collection costs. The high collection costs do not compute to the collection earned. In that respect, Interviewee 3 believes that tax collections from small stalls would be more efficient if the current system is replaced with the official assessment method by means of Tax Statement.

Local Regulation on restaurant tax currently enforced mandates that tax assessment employs the self assessment method. Actually, the Local Taxes and Levies Law regulates that tax levies may be carried out using two methods, as stated in Article 96 (2), that “every Taxpayer are to deposit the accrued taxes in accordance with the Tax Statement or remunerated in person by the Taxpayer in accordance with tax rules and regulations.” The paragraph states explicitly that the methods to assess accrued taxes are official assessment in accordance with Tax Statement and self assessment; the latter may be implemented after the Taxpayer has achieved sufficient revenue threshold and kept proper financial statements.

In addition, official assessment method offered the advantage of not having to keep proper financial statements since the internal revenue service does not need the proper documentations. Another advantage of the official assessment method is that excise officers may educate restaurant owners on how to keep simple financial statements and understand tax deposit procedures in preparation for the self assessment method.

CONCLUSION

Simply put, restaurant tax levy on Warung Tegal are in accordance of Law No. 28 of 2009. The restaurant tax on Warung Tegal controversy is caused by the negligence of excise officers during a socialization session and blow-up by the media, thus causes the public to misunderstand the new regulations. By virtue of Local Regulation No. 8 of 2003, restaurants of any type, including Warung Tegal, are tax bases, on the condition that its revenue threshold is Rp 30,000,000 per year or more. The new local regulation elaborates the tax bases by including the word “warung” to the definition of restaurant. This causes the public to believe that Warung Tegal is new tax bases.

Despite the approval by the Regional House of Representatives and evaluated by the Ministry of Home Affairs, the new regulation may cause several issues. The first concomitant issue is related to revenue threshold exempted from taxes. Although the new regulation increases the threshold to Rp 60,000,000 per year, it would still affect restaurants whose business is yet to develop.

Even if the policy is forced into action, it will instead hinder the development of restaurant and Warung Tegal owners. The proposed solution is increasing the revenue threshold and classifying a system of restaurant tax tariffs in response to the type of restaurant.

The second anticipated issue is tax levies. Restaurant tax is currently levied using the self assessment method. The method is ineffective as it increases the costs of collection. The proposed solution is the implementation of the official assessment method. This way, the cost of collection is lower, the responsibility of the government is reduced, and restaurant owners are less hassled because tax assessment is conducted by the internal revenue service.

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