

Fiscal Discretion and Citizens' Burden: Tax Proportionality under Non-Emergency Economic Pressure

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Abstract: *Economic pressure that falls short of an emergency places the government in a difficult fiscal position, because state revenue must be strengthened at the very moment when citizens face rising economic burdens. This article examines the legal limits of fiscal discretion when taxation is used as an instrument of fiscal recovery under non-emergency economic pressure. It also constructs a tax proportionality test as a structured and weighted accountability framework for determining whether tax policy remains legally justifiable or instead becomes a mechanism for shifting fiscal burdens excessively onto citizens. The study applies normative legal research using statutory, conceptual, and policy approaches. It finds that tax policy in a non-emergency situation cannot be justified by formal statutory authority under Article 23A of the 1945 Constitution of the Republic of Indonesia alone. Article 23A supplies a legality threshold; the substantive assessment of tax burdens must also be connected to the constitutional guarantees of legal certainty, protection of property rights, and social welfare. The proposed framework comprises seven elements: legality, legitimate public purpose, suitability of the instrument, necessity, balance of burden, transparency and auditability, and periodic evaluation. These elements do not operate as a strict cumulative invalidation test. Legality functions as the initial threshold. Legitimate purpose, suitability, necessity, and balance of burden operate as core justification elements, whereas transparency, auditability, and periodic evaluation operate as accountability indicators. Applying the framework to the 12 percent Value Added Tax (VAT) policy shows that legality and fiscal purpose are only the starting points of justification. The critical issues lie in proving necessity, protecting purchasing power, balancing burdens, disclosing the use of revenue, and evaluating the effects of the policy on vulnerable groups.*

Keywords: *Accountability; Citizens' Burden; Fiscal Discretion; Tax Policy; Tax Proportionality*

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INTRODUCTION

Economic pressure does not always arise as an emergency, yet it may generate serious legal consequences when it is addressed through tax policy. Exchange rate conditions, interest rates, energy prices, public expenditure needs, and pressure on the State Budget (Anggaran

Pendapatan dan Belanja Negara, APBN) place the government in a position that requires prompt and measured fiscal policy choices. On 9 June 2026, Bank Indonesia raised its policy rate, the BI-Rate, to 5.50 percent in order to strengthen the stabilization of the rupiah exchange rate and to respond to external pressures.¹ At the Board of Governors Meeting held on 17–18 June 2026, Bank Indonesia raised the BI-Rate again, to 5.75 percent.² The State Budget nevertheless remains the principal instrument for maintaining development continuity, social protection, and economic stability. State revenue realization through the end of May 2026 was recorded at IDR 1,185 trillion.³

Indonesia's fiscal condition reflects a complex relationship between the need to increase state revenue and the need to protect citizens from economic burdens. Indonesia's tax-to-gross domestic product (GDP) ratio in 2023 remained at 12.0 percent, well below the Asia-Pacific average of 19.5 percent and the average for member countries of the Organisation for Economic Co-operation and Development (OECD) of 33.9 percent.⁴ That figure is commonly invoked to explain the need to strengthen tax revenue. The legal problem, however, does not lie in the state's need to obtain revenue. It lies in the limits of state justification when that need is met through policies that directly increase the burdens borne by citizens.

Taxation rests on a firm constitutional basis, because the state requires revenue to finance government administration, public services, development, and social protection. Article 23A of the 1945 Constitution of the Republic of Indonesia provides that taxes and other compulsory levies for state purposes shall be regulated by law.⁵ That provision shows that taxation is not merely an economic instrument but a compulsory legal act of the state. It follows that the authority to collect taxes cannot be justified by fiscal need alone. That authority must also satisfy the requirements of legality, representation, justice, and protection of the citizens who bear the burden.

Article 23A, however, cannot by itself serve as the sole constitutional basis for a substantive review of tax burdens. The provision establishes a legality requirement and nothing more: it requires taxes and other compulsory levies to be regulated by statute. It does not determine when a tax burden becomes excessive, unreasonable, or disproportionate. For that reason, the constitutional foundation of the tax proportionality framework developed in this article rests not on Article 23A alone but on a cluster of constitutional provisions. Article 28D paragraph (1) supplies the basis for legal certainty and equal treatment before the law. Article 28H paragraph (4) protects private ownership from arbitrary interference. Articles 33 and 34 express the social welfare orientation of the Indonesian constitutional economy. Together, these provisions furnish the substantive constitutional foundation for assessing whether a tax

¹ Bank Indonesia, "BI-Rate Naik 25 Bps Menjadi 5,50%: Kebijakan Lanjutan Memperkuat Stabilitas Nilai Tukar Rupiah" (Jakarta: Bank Indonesia, 2026), https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_2811926.aspx.

² Bank Indonesia, "BI-Rate Naik 25 Bps Menjadi 5,75%: Memperkuat Stabilitas, Mendorong Pertumbuhan Ekonomi" (Jakarta: Bank Indonesia, 2026), https://www.bi.go.id/id/publikasi/ruang-media/news-release/Pages/sp_2812626.aspx.

³ Kementerian Keuangan Republik Indonesia, "APBN KiTa: Kinerja dan Fakta, Edisi Juni 2026" (Jakarta: Kementerian Keuangan Republik Indonesia, 2026), <https://www.kemenkeu.go.id/apbnkita>.

⁴ Organisation for Economic Co-operation and Development, "Revenue Statistics in Asia and the Pacific 2025: Indonesia," Country Note (Paris: OECD Publishing, 2025), <https://doi.org/10.1787/6c04402f-en>.

⁵ Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 23A.

burden remains reasonable within a framework that is committed to both the rule of law and social welfare.

Tax policy also remains inseparable from the principles of state financial management. The State Finance Law requires state finances to be managed in an orderly manner, in compliance with laws and regulations, and in a manner that is efficient, economical, effective, transparent, and responsible, while taking into account a sense of justice and propriety.⁶ This principle matters because additional tax revenue does not stand alone. Revenue collected from the public must be connected to the quality of expenditure, the control of leakage, the effectiveness of programs, and accountability in the use of the budget. When the tax burden is increased without proof that the state has first improved its expenditure and closed the spaces for inefficiency, tax policy risks shifting from an instrument of public financing into a means of transferring fiscal burdens to citizens.

The distinction between non-emergency economic pressure and an emergency situation is crucial to determining the limits of the government's fiscal authority. Tax policy that increases the burdens borne by citizens cannot be assessed by the same standard in a crisis and in ordinary economic pressure. During the coronavirus disease 2019 (COVID-19) pandemic, fiscal policy operated amid a combined health and economic crisis, which prompted the state to use special legal instruments to maintain the stability of state finances.⁷ The legal threshold of emergency in Indonesia also remains inseparable from the criteria of "compelling urgency," namely, the existence of an urgent need to resolve a legal problem quickly, the existence of a legal vacuum or of inadequate regulation, and the impossibility of addressing that vacuum through the ordinary legislative process because doing so would take a long time.⁸ Under this standard, economic pressure that has not reached the level of an emergency cannot be treated as though it opened space for the government to exercise extraordinary authority.

Tax policy in a non-emergency situation must remain subject to the ordinary processes of accountability, budget deliberation, and review of policy rationality. The government has policy space in which to maintain fiscal stability, but that space must not be used to justify shifting budgetary pressure directly onto citizens. In a non-emergency situation, the state remains obliged to assess less burdensome alternatives, to improve expenditure, to control leakage, and to prove that an additional tax burden is genuinely necessary.

Previous studies of Indonesia's fiscal policy generally treat taxation as part of a strategy to expand fiscal space and to maintain the state's capacity to finance development. Pressure on state revenue, infrastructure spending needs, and social welfare demands have long been understood as reasons for the government to strengthen the tax system and revenue administration.⁹ Post-pandemic fiscal studies also show that fiscal consolidation and revenue reform became important issues after the State Budget carried a heavy burden during the health

⁶ Indonesia, Law Number 17 of 2003 concerning State Finance, art. 3(1).

⁷ Ni Putu Niti Suari Giri et al., "The Dynamics of Government Fiscal Policy Post COVID-19 Pandemic in Indonesia (Legal Analysis of Government Regulation Instead of Law Number 1 Year 2020)," *Law Reform: Jurnal Pembaharuan Hukum* 20, no. 1 (2024): 135–52, <https://doi.org/10.14710/lr.v20i1.63339>.

⁸ Indonesia, Constitutional Court Decision Number 138/PUU-VII/2009.

⁹ Natasha Hamilton-Hart and Günther G. Schulze, "Taxing Times in Indonesia: The Challenge of Restoring Competitiveness and the Search for Fiscal Space," *Bulletin of Indonesian Economic Studies* 52, no. 3 (2016): 265–95, <https://doi.org/10.1080/00074918.2016.1249263>.

crisis and the subsequent economic recovery.¹⁰ These studies supply a strong economic basis for analysis, but they have not adequately answered the normative question of what legal limits apply when fiscal recovery is pursued through additional tax burdens imposed on society.

The literature on tax compliance shows that the willingness of citizens to pay taxes is not determined solely by the threat of sanctions. The complexity of the tax system, the availability of tax information, tax morale, trust in government, and perceptions of the benefits of state expenditure all influence the willingness of citizens to fulfill their tax obligations.¹¹ Other findings show that tax morale, perceptions of justice, and trust in public authorities are likewise related to tax compliance.¹² This literature strengthens the view that taxation rests not only on formal obligation but also on legitimacy. Its limitation lies in its focus on taxpayer behavior rather than on the legal limits that govern the state's use of taxation as an instrument of fiscal recovery.

Studies of discretion and proportionality provide an important foundation for assessing governmental action. Administrative discretion may be used to address concrete problems in government administration, but its use must be limited by the purpose for which the authority was granted, the general principles of good governance, the public interest, and the prohibition of abuse of authority.¹³ The principle of proportionality has also been recognized in Indonesian constitutional law scholarship, particularly in assessing the relationship among limitations on rights, public interests, and state policy choices.¹⁴ The limitation of these studies is that they have been applied largely to constitutional rights, the dissolution of political parties, and conflicts of rights, and have not been directed specifically toward assessing tax policy as a fiscal act that burdens citizens.

At the comparative level, Germany and the Strasbourg system are used in this article not as direct models to be transplanted into Indonesian constitutional law but as limited comparators that show how tax burdens may be examined through structured reasoning when taxation interferes with protected legal interests. The German experience is relevant because proportionality review of taxation has developed within a constitutional tradition that recognizes both legislative fiscal discretion and judicial scrutiny of unreasonable burdens. In that tradition, tax burdens have been discussed in relation to the property guarantee under Article 14 of the German Basic Law, including in the debate over the *Halbteilungsgrundsatz*,

¹⁰ Sri Mulyani Indrawati, Elan Satriawan, and Abdurrohman, "Indonesia's Fiscal Policy in the Aftermath of the Pandemic," *Bulletin of Indonesian Economic Studies* 60, no. 1 (2024): 1–33, <https://doi.org/10.1080/00074918.2024.2335967>.

¹¹ Ismail Khozen and Milla Sepliana Setyowati, "Managing Taxpayer Compliance: Reflections on the Drivers of Willingness to Pay Taxes in Times of Crisis," *Cogent Business and Management* 10, no. 2 (2023): 1–15, <https://doi.org/10.1080/23311975.2023.2218176>.

¹² Joshua Timothy and Yulianti Abbas, "Tax Morale, Perception of Justice, Trust in Public Authorities, Tax Knowledge, and Tax Compliance: A Study of Indonesian SMEs," *eJournal of Tax Research* 19, no. 1 (2021): 168–84, <https://www.unsw.edu.au/business/sites/default/files/documents/168-Tax-morale-perception-of-justice-trust-in-public-authorities.pdf>.

¹³ Julista Mustamu, "Diskresi Dan Tanggungjawab Administrasi Pemerintahan," *Jurnal Sasi* 17, no. 2 (2011): 1–9, <https://doi.org/10.47268/sasi.v17i2.349>.

¹⁴ Bisariyadi, "Penerapan Uji Proporsionalitas Dalam Kasus Pembubaran Partai Politik: Sebuah Perbandingan," *Jurnal Hukum & Pembangunan* 48, no. 1 (2018): 84–109, <https://doi.org/10.21143/jhp.vol.48.no.1.1597>.

or half-division principle, in the imposition of tax burdens.¹⁵ In its decision of 18 January 2006, the German Federal Constitutional Court rejected the use of that principle as a rigid constitutional limit. The decision nonetheless showed that tax burdens can be assessed within a framework of constitutionality and reasonable burden allocation.¹⁶

The Strasbourg system serves as a second comparator because the European Court of Human Rights examines taxation in relation to the protection of property under Article 1 of Protocol No. 1 to the European Convention on Human Rights. The Court generally affords states a wide margin of appreciation in fiscal matters, but tax measures may still be assessed by reference to legality, public interest, and a fair balance between the demands of the general interest and the protection of individual rights.¹⁷ These comparators are institutionally different from Indonesia. The German Federal Constitutional Court operates within a federal constitutional system that has a developed proportionality tradition, whereas the European Court of Human Rights is a supranational court that applies a margin of appreciation to member states. The comparison drawn here is therefore limited to the structure of legal reasoning; it does not assert institutional equivalence or propose direct doctrinal transplantation.

The novelty claimed here is narrower. It does not rest on any assertion that proportionality has never been applied in taxation. Such a claim would be inaccurate, because comparative scholarship and judicial practice have long recognized proportionality review in the tax context. The novelty of this article lies instead in reconstructing the tax proportionality test within the Indonesian constitutional setting as a governance and accountability framework for assessing the risk of fiscal burden shifting under non-emergency economic pressure. The framework rests on the legality requirement of Article 23A, but its substantive dimension is connected to legal certainty, the protection of property rights, and the social welfare orientation of the Constitution. Proportionality in this article is therefore understood not as a direct transplant from German or Strasbourg doctrine but as a structured form of constitutional and administrative reasoning that connects fiscal discretion, state financial accountability, the quality of public expenditure, and the reasonableness of the burdens borne by citizens.

This framework must be situated specifically within tax policy, because taxation differs in character from ordinary public policy. Taxation is compulsory, it reduces the economic capacity of citizens, and it is at the same time defended as an instrument for financing public interests. Studies of redistribution through taxation show that taxation, particularly in developing countries, has a limited capacity to reduce inequality unless it is accompanied by effective and well-targeted public expenditure.¹⁸ That finding matters here because the central question of this article concerns not only how the state collects taxes but also whether an

¹⁵ Hanno Kube, *Verhältnismäßigkeit: Zur Tragfähigkeit eines verfassungsrechtlichen Schlüsselkonzepts*, ed. Matthias Jestaedt and Oliver Lepsius (Tübingen: Mohr Siebeck, 2015), <https://doi.org/10.1628/978-3-16-160634-2>.

¹⁶ Germany, Federal Constitutional Court [Bundesverfassungsgericht], Order of the Second Senate of 18 January 2006, 2 BvR 2194/99, BVerfGE 115, 97.

¹⁷ European Court of Human Rights, “Taxation and the European Convention on Human Rights” (Strasbourg, 2023), https://www.echr.coe.int/documents/d/echr/fs_taxation_eng.

¹⁸ Richard M. Bird and Eric M. Zolt, “Redistribution via Taxation: The Limited Role of the Personal Income Tax in Developing Countries,” *UCLA Law Review* 52, no. 6 (2005): 1627–95, <https://www.uclalawreview.org/redistribution-via-taxation-the-limited-role-of-the-personal-income-tax-in-developing-countries/>.

additional tax burden can be justified when the quality of expenditure and the accountability of revenue use have not been fully ensured.

This literature map reveals a remaining analytical gap concerning the legal limits on the use of taxation as an instrument of fiscal recovery under non-emergency economic pressure. Earlier research has addressed fiscal space, post-crisis fiscal policy, tax compliance, taxpayer trust, administrative discretion, and the principle of tax proportionality in comparative traditions. What has not been sufficiently addressed is the relationship among government fiscal discretion, tax policy, accountability in state financial management, and the risk of shifting fiscal burdens to citizens in a developing country that faces economic pressure but not an emergency.

This article proceeds from the view that tax policy under non-emergency economic pressure cannot be assessed solely from the perspective of the state's revenue needs. Such policy must be examined by asking whether the state has chosen an appropriate instrument, has considered less burdensome alternatives, has protected the purchasing power of citizens, has ensured that the burden is reasonable, and has proved that the proceeds collected are used transparently and can be audited. The tax proportionality test proposed here is not intended to eliminate the policy space of lawmaking institutions in fiscal matters. The framework is more properly understood as a measure of rationality, accountability, and reasonableness of burden that can be applied in policymaking, in budget deliberation, in state financial audit, and in constitutional review when a tax policy is alleged to impose an unreasonable burden.

This article addresses two questions. First, what are the legal limits of the government's fiscal discretion when taxation is used as an instrument of fiscal recovery under non-emergency economic pressure? Second, how can a tax proportionality test be used to assess tax policy so that such policy does not become a means of shifting fiscal burdens excessively onto citizens? The purpose of the article is to develop a normative framework capable of assessing tax policy more comprehensively, not only in terms of formal validity but also in terms of necessity, suitability of the instrument, balance of burden, transparency, auditability, periodic evaluation, and state financial accountability.

METHOD

This study applies normative legal research, which situates tax policy as a governmental legal act within the framework of state financial management. Normative legal research is appropriate because the central issue is not the empirical measurement of tax effects but the assessment of the limits of governmental authority, the legal justification of tax policy, and the construction of norms that prevent excessive shifting of fiscal burdens onto citizens. The research is prescriptive in character, because it seeks to formulate a legal standard for assessing the reasonableness of tax policy under non-emergency economic pressure.¹⁹

The study combines statutory, conceptual, and policy approaches. The statutory approach examines the constitutional basis of tax collection, the principles of state financial management, governmental administrative authority, state financial audit, and the legal framework of taxation. The conceptual approach is used to construct the relationship among fiscal discretion, proportionality, the burdens borne by citizens, state financial accountability, and the risk of fiscal burden shifting. The policy approach serves to read the direction of the government's

¹⁹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2010).

fiscal policy in planning and budget implementation documents, particularly where taxation forms part of a strategy of fiscal recovery or fiscal strengthening.

The primary legal materials comprise the 1945 Constitution of the Republic of Indonesia; the laws and regulations on state finance, the state treasury, the audit of the management and accountability of state finances, government administration, taxation, and the State Budget; and the relevant decisions of the Constitutional Court. Constitutional Court decisions are used principally to examine the constitutional basis of tax collection, the limits on the use of authority in emergency situations, and the policy space of lawmaking institutions in fiscal matters.

The secondary legal materials consist of books, journal articles, official institutional reports, fiscal policy documents, and other relevant academic publications. Documents such as the Macroeconomic Framework and Principles of Fiscal Policy (Kerangka Ekonomi Makro dan Pokok-Pokok Kebijakan Fiskal, KEM-PPKF), the periodic budget report APBN KiTa, and the reports of the Audit Board (Badan Pemeriksa Keuangan, BPK), the International Monetary Fund (IMF), the World Bank, the OECD, and the Asian Development Bank (ADB) are not treated as primary legal norms. They are used as supporting materials for understanding the policy context, the direction of government fiscal policy, the condition of state revenue, fiscal risks, and the factual basis underlying tax policy choices. Literature on Value Added Tax (VAT) and on the distributional impact of consumption taxes is used as secondary material to strengthen the normative reading of the burdens borne by citizens, not as a basis for new empirical measurement.

Legal materials were gathered through library research covering laws and regulations, court decisions, books, journal articles, official reports, and relevant fiscal policy documents. The analysis is prescriptive: legal materials and secondary materials are interpreted systematically in order to construct a tax proportionality test. That test asks whether a tax policy has a clear legal basis, a legitimate public purpose, a suitable instrument, genuine necessity, balance of burden, transparency and auditability in the use of revenue, and periodic evaluation. The framework is then applied to tax policy under non-emergency economic pressure so that taxation does not shift from an instrument of public financing into a means of shifting fiscal burdens excessively onto citizens.

ANALYSIS AND DISCUSSION

The Legal Character of Tax Policy as an Instrument of Fiscal Recovery

Tax policy in a state governed by the rule of law cannot be understood merely as a technique for increasing state revenue. Taxation functions as a source of financing for government administration, public services, development, and social protection. Its compulsory nature, however, makes it a legal act of the state that bears directly upon the economic space of the citizen. The authority to impose taxation derives its constitutional basis from the provision that taxes and other compulsory levies for state purposes shall be regulated by law.²⁰

The compulsory character of taxation distinguishes it from voluntary forms of state revenue. Citizens are not free to accept or refuse a tax obligation once the normative requirements have been satisfied. Taxation therefore reveals two dimensions at once. On the

²⁰ Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 23A.

one hand, it is a legitimate state instrument for financing public interests. On the other hand, it is a burden that reduces the economic capacity of citizens. This dual character requires every tax policy to be formally valid and, beyond that, accountable in respect of its purpose, its necessity, and the balance of the burden it imposes.

The principle of legality operates as the first limit on tax policy. Legality must not be understood merely as the existence of a written legal basis. It must also ensure that the object, the subject, the rate, the collection mechanism, and the legal consequences of taxation are clearly determined. The Constitutional Court has affirmed that tax collection remains inseparable from the principle of popular consent expressed through legislation, so that the state cannot impose compulsory levies on the basis of administrative considerations alone.²¹ Legality therefore serves to protect citizens from unmeasured levies.

Tax policy must also be understood in close relation to state financial management. Tax revenue is not an end in itself. It forms part of the State Budget cycle and must return to the public interest through expenditure that is efficient, effective, transparent, and accountable. For that reason, the State Finance Law places state financial management under the principles of orderliness, compliance with law, efficiency, economy, effectiveness, transparency, accountability, and regard for justice and propriety.²² This norm shows that increasing tax revenue remains inseparable from the state's obligation to improve the quality of its expenditure.

The relationship between taxation and the State Budget shows that tax policy does not stand alone as a revenue policy. Taxation is always connected to expenditure choices, development priorities, deficit control, debt financing, and the protection of vulnerable groups. The state may accordingly use taxation as one instrument of fiscal recovery under economic pressure, but that choice must be situated within a broader framework of fiscal governance. Tax policy becomes problematic when it is used as a shortcut to cover budgetary pressure without any evaluation of the quality of state expenditure.

A legal problem arises when the need for revenue is treated as a sufficient reason to increase the tax burden. Indonesia's tax ratio, which remains lower than the Asia-Pacific and OECD averages, may serve as a policy argument for strengthening state revenue.²³ The tax ratio, however, cannot by itself answer whether an additional tax burden at a particular moment is fair, necessary, and reasonable. Revenue figures explain the state's fiscal need; they do not prove the propriety of the burden borne by citizens.

Tax policy as an instrument of fiscal recovery differs from tax policy as a routine mechanism of state revenue. Under normal conditions, taxation operates as a financing instrument grounded in the tax system and tax administration. Under economic pressure, taxation is often used to cover a narrowing fiscal space, to strengthen market confidence, to maintain budget sustainability, or to finance particular expenditure needs. This shift in function requires tax policy to be assessed more strictly, because the burden it creates may arise precisely when the economic capacity of society is itself under pressure.

Indonesia's post-pandemic experience shows that fiscal recovery requires strong revenue,

²¹ Indonesia, Constitutional Court Decision Number 188/PUU-XXII/2024; Indonesia, Constitutional Court Decision Number 4/PUU-XIII/2015.

²² Indonesia, Law Number 17 of 2003 concerning State Finance, art. 3(1).

²³ OECD, "Revenue Statistics in Asia and the Pacific 2025: Indonesia."

expenditure consolidation, and improved budget governance in combination, rather than revenue alone. Post-crisis fiscal studies show that the state's principal challenge does not end with increasing revenue but extends to maintaining the credibility of the State Budget, the effectiveness of expenditure, and the sustainability of development policy.²⁴ From a legal perspective, this finding strengthens the argument that taxation must not be separated from accountability in the use of public funds.

Tax policy that emphasizes revenue alone may create a problem of legitimacy. The willingness of citizens to comply with taxation is influenced by trust in government, perceptions of justice, tax morale, and public assessment of the benefits of state expenditure.²⁵ When society observes that additional tax burdens are not followed by improvements in public services, by the reduction of leakage, or by greater expenditure efficiency, the relationship between the state and taxpayers may weaken. Tax legitimacy therefore arises not only from legislation but also from the quality of the state's fiscal accountability.

The legal character of taxation also requires a balance between state interests and the protection of citizens. The state is authorized to collect taxes for the public interest, but that authority does not extinguish its obligation to consider the capacity of citizens. A tax that is formally valid may still raise a legal problem if it is imposed without regard to purchasing power, to the structure of the burden, and to its effect on more vulnerable groups. The validity of taxation must therefore not stop at the question whether a legal basis exists; it must extend to the question whether the burden imposed is reasonable.

The risk of imbalance becomes most visible in consumption tax policy. Consumption taxes are relatively easy to collect and can strengthen revenue, but their economic burden may be felt more broadly across society, including by fixed-income and vulnerable groups. Studies of taxation and public expenditure show that the use of taxation to improve welfare is limited unless it is accompanied by effective and well-targeted expenditure.²⁶

Tax policy adopted under economic pressure must be situated within the principles of fiscal prudence and the legal protection of citizens. These principles are not intended to limit the state's ability to obtain revenue. They are intended to prevent taxation from becoming an instrument that covers the consequences of expenditure inefficiency, budget leakage, or weak state financial accountability. The state must therefore prove that tax policy has been chosen because it is genuinely necessary, not because it is the easiest way to transfer fiscal pressure to society.

The legal character of tax policy as an instrument of fiscal recovery ultimately shows that taxation stands at the intersection of state authority and citizens' burden. Taxation may legitimately be used to maintain fiscal sustainability, but its use must be limited by legality, legitimate purpose, necessity, fairness in the allocation of burden, transparency, and accountability in the use of revenue. This framework forms the basis for assessing the government's fiscal discretion under non-emergency economic pressure, because the government's policy space remains inseparable from its obligation to protect citizens from excessive burdens.

Government Fiscal Discretion under Non-Emergency Economic Pressure

²⁴ Indrawati, Satriawan, and Abdurrohman, "Indonesia's Fiscal Policy in the Aftermath of the Pandemic."

²⁵ Khozen and Setyowati, "Managing Taxpayer Compliance."

²⁶ Bird and Zolt, "Redistribution via Taxation."

Government fiscal discretion arises from the state's need to choose a policy direction when rigid legal norms cannot fully address economic conditions. Exchange rate pressure, changes in interest rates, a slowdown in revenue, growing expenditure needs, and rising subsidy burdens may place the government in a situation that demands a prompt response. This policy space is not the same as complete freedom, because every governmental action must remain within the limits of the authority conferred, the purpose for which that authority was granted, and the general principles of good governance.²⁷

Administrative law affords government officials space to exercise discretion where laws and regulations provide a choice, do not regulate a matter, are incomplete or unclear, or where governmental stagnation must be addressed in the public interest.²⁸ This framework is important in fiscal policy because the government frequently faces circumstances that change more rapidly than legal norms can be formed. Fiscal discretion can therefore be understood as the government's policy space in determining instruments of revenue, expenditure, financing, and economic stabilization, provided that such choices remain legally accountable.

Non-emergency economic pressure differs from an emergency situation that supplies a basis for the use of extraordinary authority. The experience of the COVID-19 pandemic shows that fiscal policy may operate within a health and economic crisis that prompted the state to use special legal instruments to maintain the stability of state finances.²⁹ An emergency situation in Indonesian law must also be read through the criteria of "compelling urgency," namely, the existence of an urgent need to resolve a legal problem quickly, the existence of a legal vacuum or of inadequate regulation, and the impossibility of addressing that vacuum through the ordinary legislative process because doing so would take a long time.³⁰

These criteria establish an operational limit: not every form of economic pressure can be treated as an emergency. Exchange rate pressure, interest rate increases, a slowdown in revenue, and rising expenditure needs may create serious fiscal pressure, but they do not necessarily satisfy the requirement of compelling urgency. Economic conditions that can still be addressed through the ordinary budget process, through policy deliberation with the House of Representatives (Dewan Perwakilan Rakyat, DPR), through expenditure evaluation, and through ordinary administrative instruments cannot supply a basis for applying the standard of extraordinary authority.

The distinction between emergency situations and non-emergency economic pressure determines how tax policy should be assessed. In an emergency, the acceleration of policy may receive stronger justification in order to prevent greater harm. In a non-emergency situation, the government still has the time and the space to consider its options more deliberately. The choice to increase or expand tax burdens must not be the first response adopted without assessing other options, such as expenditure efficiency, control of leakage, optimization of non-tax state revenue, subsidy reform, and improved tax compliance that does not increase the burden on vulnerable groups.

The space for fiscal discretion is visible in government fiscal policy documents that treat the State Budget as an instrument for maintaining growth, stability, equity, and social

²⁷ Mustamu, "Diskresi Dan Tanggungjawab Administrasi Pemerintahan."

²⁸ Indonesia, Law Number 30 of 2014 concerning Government Administration, arts. 1(9) and 22.

²⁹ Giri et al., "The Dynamics of Government Fiscal Policy Post COVID-19 Pandemic in Indonesia."

³⁰ Indonesia, Constitutional Court Decision Number 138/PUU-VII/2009.

protection. The Macroeconomic Framework and Principles of Fiscal Policy is prepared as part of the budgeting process and must be deliberated with the House of Representatives in the preliminary discussion of the Draft State Budget.³¹ This position shows that fiscal policy is not merely a technocratic decision of the government. It forms part of a legal and political budgetary process that must obtain legitimacy, oversight, and open deliberation.

Fiscal policy is always a matter of priority choices. When the government states that the State Budget operates to maintain growth momentum and stability, that statement must be accompanied by measurable standards concerning the effectiveness of expenditure, the quality of programs, and the effect of both on society.³² Fiscal discretion becomes problematic when the government emphasizes only the need to safeguard the State Budget without adequately explaining how policy burdens are distributed fairly and how additional revenue will be used effectively.

Global economic pressure shows that the government does not operate within entirely free fiscal space. The IMF observes that Indonesia's growth remains strong amid external shocks, but that risks continue to arise from global uncertainty, financial market volatility, and the need to maintain a carefully calibrated policy mix.³³ The World Bank likewise identifies the resilience of domestic demand as an important factor while emphasizing the need for prudent management of fiscal and economic risks.³⁴ These conditions justify a fiscal response, but they do not justify every form of additional tax burden imposed on citizens.

Fiscal discretion under economic pressure operates as a choice among several alternatives rather than as a single path. The state may strengthen revenue by broadening the tax base, improving administration, enforcing the law against tax avoidance, raising compliance, and evaluating fiscal incentives. It may also restructure expenditure by controlling ineffective programs, reforming subsidies, improving the quality of procurement, and strengthening oversight of budget use. A new tax or a rate increase can be justified only when the government can show that the choice is genuinely necessary after less burdensome alternatives have been considered.

The increase in Bank Indonesia's policy rate in June 2026 shows that economic pressure may prompt policy responses aimed at maintaining exchange rate stability and anchoring inflation expectations.³⁵ This monetary response bears an indirect relationship to fiscal policy, because economic stability affects the financing space of the State Budget, the cost of debt, purchasing power, and the economic capacity of citizens. In such a situation, tax policy demands greater caution, because the burdens confronting society extend well beyond taxation to price pressures, credit costs, and income uncertainty.

³¹ Kementerian Keuangan Republik Indonesia, "Kerangka Ekonomi Makro dan Pokok-Pokok Kebijakan Fiskal Tahun 2026" (Jakarta: Kementerian Keuangan Republik Indonesia, 2025), <https://fiskal.kemenkeu.go.id/publikasi/kem-ppkf>.

³² Kementerian Keuangan Republik Indonesia, "APBN KiTa: Kinerja dan Fakta, Edisi Juni 2026."

³³ International Monetary Fund, "Indonesia: 2025 Article IV Consultation—Press Release; Staff Report; and Statement by the Executive Director for Indonesia," IMF Country Report No. 2026/010 (Washington, DC: International Monetary Fund, 2026), <https://www.imf.org/en/publications/cr/issues/2026/01/21/indonesia-2025-article-iv-consultation-press-release-staff-report-and-statement-by-the-573330>.

³⁴ World Bank, "Indonesia Economic Prospects, December 2025: Digital Foundations for Growth" (Washington, DC: World Bank, 2025), <https://openknowledge.worldbank.org/entities/publication/2181f2fe-62c4-4a7c-b38d-d940dd673530>.

³⁵ Bank Indonesia, "BI-Rate Naik 25 Bps Menjadi 5,50%."

The analysis of fiscal discretion remains inseparable from the general principles of good governance, under which the authority to choose a policy must be exercised rationally and openly, without abuse of authority, and without disregarding the interests of the communities affected.³⁶ Discretion is legitimate when it is used to solve public problems responsibly. It becomes distorted when it conceals weaknesses in fiscal governance by imposing the consequences of those weaknesses on citizens.

Tax policy adopted within the space of fiscal discretion must rest on reasons that can be tested. The government must explain the fiscal problem to be addressed, why taxation was chosen, which groups will bear the burden, how the policy affects purchasing power, and how the resulting revenue will be used. This explanation is not merely a matter of public communication; it forms part of legal accountability. Without a clear basis, tax policy may easily shift from an instrument of fiscal recovery into an imbalanced act of burdening.

The use of fiscal discretion must also take account of the boundary between state interests and the capacity of citizens. The state has an interest in maintaining fiscal credibility, but citizens have an interest in not being excessively burdened under pressing economic conditions. The ADB identifies the resilience of domestic demand as a factor supporting Indonesia's growth, so that fiscal policy which suppresses purchasing power warrants serious consideration.³⁷ Purchasing power is more than an economic variable. It is a concrete measure of the capacity of citizens to bear the burden that tax policy imposes.

Tax policy arising from fiscal discretion must also be linked to state financial oversight, because the management of state revenue and expenditure must ultimately be capable of examination to ensure that public funds are used for their intended purposes. The Audit Board holds constitutional and statutory mandates to examine the management and accountability of state finances.³⁸ That mandate shows that the use of taxation as a fiscal instrument must end in testable accountability, not merely in the success of increasing revenue figures.

Sound fiscal discretion requires proof that the state has put its own house in order before increasing the burdens borne by citizens. Such proof includes evaluation of expenditure, control of inefficiency, improvement of revenue administration, and protection of the groups most vulnerable to changes in tax policy. The absence of such proof weakens the legitimacy of the policy, because citizens may perceive taxation as a means of covering the consequences of fiscal governance that is not yet fully accountable.

The limit of fiscal discretion under non-emergency economic pressure lies in the government's ability to prove the rationality, the necessity, and the reasonableness of the policy burden. The government may use taxation as an instrument of fiscal recovery, but it must not treat taxation as the easiest way to cover budgetary pressure. Fiscal discretion must operate within the corridors of legality, the general principles of good governance, transparency, oversight, and state financial accountability. This framework provides the basis for assessing whether a particular tax policy risks becoming a form of fiscal burden shifting onto citizens.

Fiscal Burden Shifting to Citizens as a Legal Problem

³⁶ Indonesia, Law Number 30 of 2014 concerning Government Administration, art. 10.

³⁷ Asian Development Bank, "Indonesia: Economy" (Manila: Asian Development Bank, 2026), <https://www.adb.org/where-we-work/indonesia/economy>.

³⁸ Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 23E; Indonesia, Law Number 15 of 2006 concerning the Audit Board.

Fiscal burden shifting onto citizens occurs when budgetary pressure is addressed primarily by increasing tax burdens, while expenditure reform, control of leakage, and improved accountability remain unproven. In such circumstances, taxation no longer functions solely as an instrument of public financing. It may turn into a mechanism for transferring the consequences of fiscal governance to society. The legal problem lies in the imbalance between the state's authority to collect taxes and the state's obligation to ensure that such burdens arise from a legitimate, rational, and accountable necessity.

Fiscal burden shifting does not always appear as an obvious legal violation. A tax policy may have a statutory basis, follow formal procedures, and be declared part of the requirements of the State Budget. Such formality is not sufficient, however, to answer whether the burden borne by society is genuinely necessary and reasonable. The principles of state financial management require revenue and expenditure to be managed efficiently, economically, effectively, transparently, and responsibly, and with due regard to justice and propriety.³⁹

Tax policy becomes problematic when the state is quicker to increase or expand levies than to improve the quality of its expenditure. Program inefficiency, duplication of activities, ineffective procurement, and uncontrolled budget leakage may cause additional taxation to be perceived as the state charging citizens for the costs of weak governance. The audit of the management and accountability of state finances therefore matters, because fiscal accountability cannot be built merely through the preparation of the State Budget. It must be tested through accountability for the use of public funds.⁴⁰

The relationship between taxation and state expenditure must be understood as reciprocal. Citizens are required to pay taxes because the state promises public benefits through services, social protection, infrastructure, economic stability, and equity. The obligation to pay taxes loses its social legitimacy if society does not perceive a proper relationship between the burden paid and the quality of the benefits received. Studies of tax compliance show that trust in government, tax morale, the availability of tax information, and perceptions of the benefits of state expenditure all influence the willingness of citizens to pay taxes.⁴¹

Fiscal burden shifting also implicates the fairness of burden allocation. Fixed-income groups, formal workers, small business actors, and vulnerable households often have narrower room for adjustment when taxes increase. Unlike groups that are able to shift burdens or to arrange avoidance strategies, these groups experience a decline in purchasing power more directly. This condition shows that a tax policy which appears formally neutral may generate burdens that are not socially neutral.

The risk of unfairness becomes more visible in consumption taxes. Consumption taxes are relatively easy to collect, they cover a broad range of transactions, and they are often chosen to strengthen revenue. The difficulty is that consumption taxes may press hardest on groups whose income is largely devoted to basic needs. Studies of taxation in developing countries show that tax instruments are limited in their capacity to reduce inequality unless they are

³⁹ Indonesia, Law Number 17 of 2003 concerning State Finance, art. 3(1).

⁴⁰ Badan Pemeriksa Keuangan Republik Indonesia, "BPK Sampaikan LHP Atas LKPP Tahun 2024 Dan IHPS II Tahun 2024 Kepada DPD RI" (Badan Pemeriksa Keuangan, 2025), <https://www.bpk.go.id/news/bpk-sampaikan-lhp-atas-lkpp-tahun-2024-dan-ihps-ii-tahun-2024-kepada-dpd-ri>.

⁴¹ Khozen and Setyowati, "Managing Taxpayer Compliance."

accompanied by effective and well-targeted public expenditure.⁴²

The dominance of consumption taxes is not automatically wrong, but it must be controlled through a policy design that protects basic needs and vulnerable groups. Studies of the distributional impact of VAT in Indonesia show that changes in VAT policy must be assessed not only from the perspective of revenue but also in terms of their effects on inflation, poverty, inequality, and the purchasing power of citizens.⁴³ Consumption tax policy therefore cannot be justified merely on grounds of administrative ease or rapid revenue generation, because its final burden may be felt widely across households.

An increase in the consumption burden may produce layered effects, because the household that pays the tax simultaneously absorbs pressure from prices, education costs, health costs, transportation, and other household needs. In this position, taxation becomes a real burden rather than an abstract obligation. Tax policy that suppresses the consumption of low-income communities may weaken purchasing power and deepen inequality unless it is balanced by effective social expenditure.

A further problem can be read through the concept of fiscal moral hazard. The term is used here by analogy to describe a situation in which the government has an incentive to increase revenue through taxation without first improving the quality of expenditure, because taxation appears to be a faster instrument than governance reform. In the literature of institutional economics, moral hazard and soft budget constraints show that actors who know that an additional source of financing is available may lose the incentive to undertake disciplined internal correction.⁴⁴ In the fiscal context, a comparable risk arises when tax increases are chosen as the easy path while the underlying causes of budgetary pressure remain unaddressed.

Fiscal moral hazard may damage the relationship of trust between the state and taxpayers. Legal coercion alone does not produce tax compliance. Compliance rests equally on the belief that government acts fairly, transparently, and in a manner that warrants trust. The slippery slope framework explains that tax compliance is influenced by a combination of the power of authority and trust in authority.⁴⁵ Power may compel compliance in the short term, but trust more strongly determines the willingness of citizens to comply voluntarily over the long term.

Voluntary compliance is increasingly important for a state that requires sustainable revenue. The state may strengthen collection and supervision, but healthy revenue growth still depends on trust. Studies of tax compliance show that perceptions of justice, tax morale, and trust in public authorities are related to taxpayer compliance, including among small and medium-sized enterprises.⁴⁶ A tax policy perceived merely as shifting fiscal burdens onto society may erode that trust.

⁴² Bird and Zolt, "Redistribution via Taxation."

⁴³ Rus'an Nasrudin et al., "The Potential Distributional and Economic Wide Impact of the New Indonesia's VAT Law Implementation," LPEM-FEB UI Working Paper No. 202273 (Jakarta: Institute for Economic and Social Research, Faculty of Economics and Business, Universitas Indonesia, 2022), <https://ideas.repec.org/p/lpe/wpaper/202273.html>.

⁴⁴ Erich Kirchler, Erik Hoelzl, and Ingrid Wahl, "Enforced versus Voluntary Tax Compliance: The 'Slippery Slope' Framework," *Journal of Economic Psychology* 29, no. 2 (2008): 210–25, <https://doi.org/10.1016/j.joep.2007.05.004>.

⁴⁵ Kirchler, Hoelzl, and Wahl, "Enforced versus Voluntary Tax Compliance."

⁴⁶ Timothy and Abbas, "Tax Morale, Perception of Justice, Trust in Public Authorities."

Fiscal burden shifting must also be viewed in relation to taxation and fiscal democracy. Taxation is not merely a financial transaction between the state and citizens. It forms part of an accountability relationship, because the state obtains the authority to collect taxes only through the representation of citizens in the processes of lawmaking and budgeting. The literature on taxation and state-building emphasizes that taxation may strengthen state–citizen relations when it is accompanied by responsiveness, accountability, and a use of public funds whose benefits society can perceive.⁴⁷

The accountability relationship weakens when taxation is treated only as an instrument for extracting resources from society. The state possesses coercive power, but that power must be balanced by an obligation to explain, to prove, and to account for its actions. Taxes collected without accountability for expenditure tend to be perceived as a unilateral burden. In such circumstances, citizens are positioned as bearers of fiscal risk rather than as legal subjects entitled to demand quality in governance.

The problem of fiscal burden shifting becomes more visible under non-emergency economic pressure. The government may argue that revenue must be strengthened in order to maintain the stability and sustainability of the State Budget. That reason is legitimate so long as it is accompanied by proof that the state has assessed less burdensome policy options. Tax policy must not be chosen simply because it is the easiest to collect, the fastest to generate revenue, or the simplest to administer.

The use of taxation for fiscal recovery must be placed within a proper sequence of reform. The state should first demonstrate measures of expenditure efficiency, subsidy reform, broadening of the tax base without burdening vulnerable groups, improved compliance among groups that have been difficult to reach, and enforcement against tax avoidance and tax evasion. Only after these measures are assessed as insufficient may an additional tax burden be considered. This sequence matters, because it prevents taxation from becoming a shortcut that relieves the state of its obligation to improve fiscal governance.

Administrative law requires that every burden arising from a governmental decision rest on a rational basis and serve an accountable purpose.⁴⁸ Where a tax policy has broad effects on society, the government must explain why the instrument was chosen, why other alternatives are insufficient, and how the burden of the policy will be controlled. Without such an explanation, tax policy loses the quality of administrative rationality and risks becoming a disproportionate burden.

Fiscal burden shifting onto citizens is therefore a legal problem, not merely an economic one. It concerns the limits of state authority, the quality of public financial management, the fairness of burden allocation, and the protection of citizens under pressing economic conditions. A tax policy that is formally valid may still be questioned in normative terms if it is not accompanied by clear necessity, tested alternatives, and accountability in the use of revenue.

The substance that must be emphasized is that citizens are not a fiscal reserve to be mobilized whenever the state faces budgetary pressure. Citizens are legal subjects who hold the right not to be excessively burdened, the right to an honest explanation, and the right to demand the responsible use of taxes. This framework provides the basis for constructing the

⁴⁷ Wilson Prichard, *Taxation, Responsiveness and Accountability in Sub-Saharan Africa: The Dynamics of Tax Bargaining* (Cambridge: Cambridge University Press, 2015), <https://doi.org/10.1017/CBO9781316275511>.

⁴⁸ Mustamu, “Diskresi Dan Tanggungjawab Administrasi Pemerintahan.”

tax proportionality test in the following subsection, because tax policy must be assessed not only for its legality but also for its necessity, balance of burden, transparency, auditability, and evaluation.

Tax Proportionality Test as an Accountability Framework for Fiscal Discretion

A tax proportionality test is necessary because tax policy stands at the intersection of state authority and citizens' burden. Taxation may be justified as an instrument of fiscal recovery, but that justification cannot stop at formal legality. Tax policy must also be tested in terms of purpose, suitability of the instrument, necessity, balance of burden, transparency, auditability, and evaluation. Such a framework is important in order to prevent taxation from turning into a mechanism for transferring state fiscal pressure excessively onto citizens.

The principle of proportionality developed as a method for assessing whether state action that limits the rights or interests of citizens can be justified. Proportionality requires a legitimate purpose, suitable means, genuine necessity, and a balance between the benefits of the policy and the burdens it creates.⁴⁹ In taxation, proportionality cannot be transferred mechanically, because taxation has the special character of a compulsory levy that also serves as a source of state financing. Comparative legal experience shows that tax burdens may nonetheless be read through the standards of constitutionality, reasonableness, and balance, even though states are generally afforded broad policy space in fiscal matters.⁵⁰

The novelty of this article does not lie in a claim that proportionality has never been recognized in taxation. It lies in reconstructing tax proportionality as an accountability framework for fiscal discretion under non-emergency economic pressure. The framework connects the authority to collect taxes, fiscal discretion, the quality of state expenditure, the balance of citizens' burden, and public financial accountability. Taxation therefore falls to be assessed as a revenue instrument and, at the same time, as a legal policy that must be justifiable to the citizens who bear it.

The tax proportionality test advanced here is a combined framework. Four of its elements derive from the classical structure of proportionality, namely, legitimate purpose, suitability of the instrument, necessity, and balance of burden. The remaining three elements, namely, legality, transparency and auditability, and periodic evaluation, derive from the special character of tax law, from the general principles of good governance, and from accountability in state financial management.⁵¹ This combined structure is necessary because tax policy raises not only the question whether the state may collect taxes but also whether the resulting burden is managed openly, can be audited, and is not allowed to continue without correction.

The authority of this framework does not arise from a single constitutional provision or a single statutory command. It is constructed from several legal sources that operate at different levels. Article 23A of the 1945 Constitution supplies the legality threshold for taxation, but it does not itself supply a substantive standard for assessing the size or the reasonableness of a tax burden. The substantive dimension of the framework is connected to Article 28D paragraph (1), which guarantees legal certainty and equal treatment before the law; to Article 28H

⁴⁹ Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations*, Cambridge Studies in Constitutional Law (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781139035293>.

⁵⁰ Kube, *Verhältnismäßigkeit*.

⁵¹ Indonesia, Law Number 30 of 2014 concerning Government Administration, arts. 10 and 24.

paragraph (4), which protects private ownership from arbitrary interference; and to Articles 33 and 34, which express the social welfare orientation of the Indonesian constitutional economy. At the statutory level, the framework is further supported by the general principles of good governance in government administration, by the principles of state financial management, and by the audit regime governing the management and accountability of state finances. The framework is therefore presented not as a free-standing judicial test but as a structured accountability standard derived from constitutional legality, substantive protection of citizens, administrative rationality, and state financial accountability.

The seven elements of this framework do not operate as a strict cumulative invalidation test. Treating them as strictly cumulative would produce an excessive consequence, because the absence of a single element, particularly periodic evaluation, could support the conclusion that many existing tax statutes are automatically disproportionate. This article does not adopt that position. The elements operate in a structured and weighted manner. Legality functions as the initial threshold. Legitimate purpose, suitability of the instrument, necessity, and balance of burden operate as core justification elements. Transparency, auditability, and periodic evaluation operate as accountability indicators that strengthen or weaken the justification of a tax policy. Failure to satisfy an accountability indicator does not automatically invalidate a tax policy, but it supplies a reason to question the policy's legitimacy, to require corrective measures, or to demand stronger institutional justification.

The policy space of lawmaking institutions must still be recognized in taxation. Choices concerning tax objects, rates, exemptions, facilities, and administrative design fall within open legal policy so long as they do not contradict the Constitution, are not arbitrary, and do not create an unreasonable burden.⁵² The tax proportionality test is therefore not intended to displace the authority of the House of Representatives and the government in determining fiscal policy. The framework operates as a tool for assessing rationality, accountability, and reasonableness of burden, particularly where a tax policy is challenged for increasing the burdens borne by citizens in a non-emergency situation.

The scope of the framework must also be made clear. The tax proportionality test developed here addresses revenue-raising taxes, and in particular broad-based taxes imposed to strengthen state revenue under non-emergency economic pressure. The elements of suitability and balance of burden may operate differently in redistributive taxes and in corrective taxes. In redistributive taxation, the justification of burden is closely related to distributive justice and the ability-to-pay principle. In corrective taxation, the burden may be justified by the need to discourage harmful activities or to internalize social costs. For that reason, the framework should not be read as a single rigid structure applicable to every category of tax. Its direct application in this article is confined to the 12 percent VAT policy as a broad-based consumption tax used to strengthen revenue.

The first element is legality. Taxes and compulsory levies must have a statutory basis, because a tax burden involves taking part of the economic capacity of citizens for state purposes.⁵³ Legality in this context must not be understood merely as the formality of norm creation. It must ensure clarity as to the subject, the object, the rate, the tax base, the collection

⁵² Indonesia, Constitutional Court Decision Number 4/PUU-XIII/2015; Indonesia, Constitutional Court Decision Number 188/PUU-XXII/2024.

⁵³ Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 23A.

mechanism, exemptions, facilities, sanctions, and the limits of administrative authority. Uncertainty in any of these elements may create legal uncertainty and open space for unmeasured burdens.

Legality also requires that tax policy not be formed through administrative channels that exceed the statutory mandate. Divergence between statutory norms and their technical implementation may create uncertainty for taxpayers when administrative regulations substantively alter the burden.⁵⁴ Tax legality must therefore be understood as legality that is clear, consistent, and predictable, because citizens must be able to know the basis, the measure, and the consequences of the tax obligations imposed on them.

The second element is legitimate purpose. Tax policy under economic pressure can be justified only if it is directed toward a public purpose that is constitutionally acceptable, such as maintaining the sustainability of the State Budget, financing public services, protecting vulnerable groups, strengthening economic stability, or supporting equitable development. The purpose of generating state revenue must not stand alone, disconnected from the public interest. Increased revenue does not by itself prove that a tax policy is substantively legitimate if the purpose for which the revenue will be used remains unclear.

A legitimate purpose differs from an administrative interest in obtaining revenue quickly. The state needs revenue, but that need must be linked to concrete and reviewable fiscal objectives. A tax policy that emphasizes revenue targets without explaining their connection to public benefits, to social protection, or to improvement in the quality of expenditure loses its substantive legitimacy.⁵⁵ Public purpose must therefore be present in the design of the policy, not merely in the government's general narrative.

The third element is suitability of the instrument. The government must show that taxation is an appropriate instrument for achieving the stated fiscal purpose. Suitability means more than a capacity to raise revenue. It requires that the type of tax, the rate, the object, and the timing of implementation all be aligned with the problem that the policy sets out to address. A tax chosen to maintain fiscal stability must bear a rational connection to the need asserted by the government. Without such a connection, a tax policy risks becoming a burden that is irrelevant to its own purpose.

Suitability of the instrument also requires an assessment of social and economic effects. A tax that is administratively easy to collect is not necessarily the most suitable instrument if its impact presses upon groups already facing economic strain. Consumption tax policy, for example, must be assessed carefully because its final burden may be distributed widely across society. Within the tax proportionality test, ease of collection is not a sufficient reason. The government must prove that the chosen instrument is effective for the treasury and, at the same time, reasonable from the position of the citizen who bears the burden.

The fourth element is necessity. This element tests whether a tax policy is genuinely necessary or whether less burdensome alternatives are available to citizens. A situation of non-

⁵⁴ Sinta Ananda Rizqi Aprilia, Muhammad Yasir, and Hanin Alya Labibah, "Implementation of Value Added Tax Rate Increase Based on Harmonization of Tax Regulations," *PAMALI: Pattimura Magister Law Review* 6, no. 1 (2026): 144–52, <https://doi.org/10.47268/pamali.v6i1.3692>.

⁵⁵ Beverly Evangelista and Prandy Arthayoga Louk Fanggi, "Aspek Hukum Pengenaan Pajak Karbon Di Indonesia Terhadap Kesesuaiannya Dengan Prinsip Keadilan Dan Keberlanjutan," *Journal Fundamental Justice* 6, no. 2 (2025): 271–82, <https://doi.org/10.30812/fundamental.v6i2.5619>.

emergency economic pressure gives the government space to consider options other than increasing tax burdens, such as expenditure efficiency, evaluation of subsidies, improvement in the quality of procurement, optimization of non-tax state revenue, improvement of tax administration, enforcement against tax avoidance, and review of ineffective fiscal incentives. A new tax or a rate increase can be justified only if less burdensome alternatives have been seriously considered.

The element of necessity distinguishes proportional tax policy from tax policy that is merely fiscally convenient. Government discretion permits policy choices where the law provides space or where circumstances require an administrative response. Discretion must still be exercised for the public interest, must not involve abuse of authority, and must be consistent with the general principles of good governance.⁵⁶ A tax choice unaccompanied by an explanation of less burdensome alternatives loses its rational basis, even where it formally rests on a legal basis.

The fifth element is balance of burden. Tax policy must weigh the relationship between the fiscal benefits obtained by the state and the economic burden borne by citizens. That balance cannot be measured by increased revenue alone. It must also account for effects on purchasing power, the cost of living, the sustainability of businesses, and vulnerable groups. Proportionality requires that the greater the burden imposed on citizens, the stronger the reasons and the evidence the government must provide.

Balance of burden must also take into account the distribution of policy effects. The same tax may produce different consequences for different social groups. Low-income and fixed-income groups generally have more limited room for adjustment than groups with assets, access to tax planning, or the ability to shift burdens. Proportionality analysis in constitutional law emphasizes the importance of structured reasoning, so that decision-makers do not merely assert the existence of a public interest but also weigh openly the intensity of the burden created.⁵⁷

The sixth element is transparency and auditability. A tax policy that burdens citizens must be accompanied by verifiable explanations of its reasons, its revenue targets, its calculation basis, the groups affected, and the use of the resulting revenue. Transparency is not limited to the announcement of policy. It must enable the public, the House of Representatives, audit institutions, and other stakeholders to assess whether the policy is genuinely necessary. Auditability is required so that the use of tax revenue does not rest on a governmental claim alone but can be examined through the mechanisms of state financial management and accountability.⁵⁸

Transparency and auditability matter because taxation is always bound up with trust. Citizens accept tax burdens more readily when they can see that the revenue is used responsibly. Conversely, a tax policy unaccompanied by openness in the use of funds may reinforce the perception that taxation is merely an instrument for extracting resources from society. In such circumstances, formal legality is not sufficient to maintain the legitimacy of the policy.

⁵⁶ Indonesia, Law Number 30 of 2014 concerning Government Administration, arts. 1(9), 10, and 22.

⁵⁷ Vicki C. Jackson, "Constitutional Law in an Age of Proportionality," *Yale Law Journal* 124, no. 8 (2015): 3094–3196, <https://www.yalelawjournal.org/article/constitutional-law-in-an-age-of-proportionality>.

⁵⁸ Indonesia, Law Number 15 of 2004 concerning the Audit of the Management and Accountability of State Finances; Indonesia, Law Number 15 of 2006 concerning the Audit Board.

The seventh element is periodic evaluation. Tax policy adopted under economic pressure must not be treated as permanent and immune from reassessment. Evaluation is necessary in order to test whether the purpose of the policy has been achieved, whether the burden created remains reasonable, whether revenue is used for its stated purpose, and whether the policy has produced unintended effects on particular groups. A policy initially justified by fiscal pressure may lose its justification when economic conditions change or when its purpose is not achieved.

Periodic evaluation also prevents tax policy from becoming an instrument that burdens society continuously without correction. Indonesian legislation already recognizes a mechanism for monitoring and reviewing statutes after they enter into force. Articles 95A and 95B of Law Number 12 of 2011 on the Formation of Legislation, as amended by Law Number 15 of 2019, require the monitoring and review of statutes to be carried out by the House of Representatives, the Regional Representative Council (Dewan Perwakilan Daerah, DPD), and the Government, coordinated by the organ of the House responsible for legislation.⁵⁹ The evaluation element proposed here is therefore not intended to create an entirely new mechanism. It is intended to give a specific fiscal-accountability orientation to an existing legislative review mechanism. The problem is not the absence of a formal mechanism but the limited use of that mechanism to assess whether fiscal legislation continues to impose a reasonable burden after economic conditions, revenue needs, and social effects have changed.

The tax proportionality test carries institutional implications, but each institution may use it only within the limits of its own legal mandate. The Government may use the framework as an internal *ex ante* assessment before proposing or implementing a tax policy, particularly in order to explain fiscal necessity, less burdensome alternatives, and the expected use of revenue. The House of Representatives may use it in deliberating tax legislation and the State Budget through its legislative, budgetary, and oversight functions. The Audit Board does not determine the validity of a tax policy and does not assess tax rates before they are enacted; its role is confined to examining the management and accountability of state finances after revenue has entered the State Budget cycle, through financial, performance, or special-purpose audits conducted under its constitutional and statutory mandate. The Constitutional Court may use the framework only as an aid to constitutional reasoning where tax legislation is challenged for allegedly creating a manifestly unreasonable burden.⁶⁰

This framework does not eliminate the policy space of the government and of lawmaking institutions. The government retains the authority to choose fiscal policies, including taxation, when it faces economic pressure. That policy space remains necessary, because the government must maintain stability, finance public services, and preserve the sustainability of the State Budget. The tax proportionality test ensures only that such choices are made responsibly and that citizens are not placed as the primary bearers of fiscal problems that should also be addressed through improvements in state governance.

The tax proportionality test ultimately operates as a normative limit on government fiscal

⁵⁹ Indonesia, Law Number 12 of 2011 concerning the Formation of Legislation, arts. 95A and 95B, as amended by Law Number 15 of 2019.

⁶⁰ Tanto Lailam and Putri Anggia, "The Indonesian Constitutional Court Approaches the Proportionality Principle to the Cases Involving Competing Rights," *Law Reform: Jurnal Pembaharuan Hukum* 19, no. 1 (2023): 110–27, <https://doi.org/10.14710/lr.v19i1.54087>; Irene Angelita Rugian, "Prinsip Proporsionalitas Dalam Putusan Mahkamah Konstitusi (Studi Perbandingan Di Indonesia Dan Jerman)," *Jurnal Konstitusi* 18, no. 2 (2021): 461–79, <https://doi.org/10.31078/jk1829>.

discretion under non-emergency economic pressure. Legality ensures that taxation has a legal basis. Legitimate purpose ensures that taxation is directed toward the public interest. Suitability of the instrument ensures a rational relationship between taxation and the fiscal problem at hand. Necessity ensures that no less burdensome alternative has been overlooked. Balance of burden ensures that fiscal benefits do not excessively burden citizens. Transparency and auditability ensure that the proceeds collected can be accounted for. Periodic evaluation ensures that tax policy does not continue without correction.

On this construction, tax policy under non-emergency economic pressure should be assessed through seven structured elements: a clear legal basis, a legitimate public purpose, a suitable instrument, genuine necessity, balance of burden, transparent and auditable use of revenue, and periodic evaluation. These elements are not arranged as a strict cumulative invalidation formula. They operate as a weighted accountability framework in which legality provides the threshold of validity; legitimate purpose, suitability, necessity, and balance of burden provide the core justification for imposing burdens; and transparency, auditability, and periodic evaluation provide the basis for institutional accountability and policy correction. Failure to satisfy one element does not automatically render a tax policy invalid, but it may weaken the policy's legitimacy, increase the burden of justification, and support demands for legislative review, audit scrutiny, administrative correction, or constitutional examination. So understood, the tax proportionality test is an accountability framework that prevents tax policy from shifting from an instrument of public financing into a means of transferring fiscal burdens excessively onto citizens.

Application of the Tax Proportionality Test to the 12 Percent VAT Policy

The 12 percent VAT policy offers an apt example for applying the tax proportionality test. The policy has a legal basis in the Law on the Harmonization of Tax Regulations and is directly related to the state's need to strengthen revenue. At the same time, VAT is a consumption tax whose economic burden may be felt widely across society. This character makes it insufficient to assess the 12 percent VAT policy by the legality of the rate alone. The policy must also be read through its purpose, the suitability of the instrument, its necessity, the balance of burden it creates, its transparency and auditability, and its evaluation.

The selection of the 12 percent VAT policy as the object of application also reflects the limited scope of the framework developed here. VAT is selected because it is a broad-based consumption tax closely connected to revenue strengthening. The framework is therefore applied to a revenue-raising tax, not to every category of taxation. Redistributive taxes and corrective taxes may require different weighting, because their justification may rest more directly on distributive justice, ability to pay, deterrence, or the internalization of social costs. This limitation matters, so that the analysis of VAT is not treated as a general conclusion applicable to all tax instruments.

Legality is the starting point of the assessment. The Law on the Harmonization of Tax Regulations provides for gradual changes in the VAT rate, including movement toward a rate of 12 percent.⁶¹ From this perspective, the 12 percent VAT policy satisfies the principal requirement for a compulsory levy: a statutory basis. The question of legality does not stop with the existence of a legal basis, because the technical implementation of the policy is

⁶¹ Indonesia, Law Number 7 of 2021 concerning the Harmonization of Tax Regulations, art. 7.

subsequently regulated by ministerial regulations issued by the Minister of Finance. The regulation of the tax base in the form of an alternative value (*nilai lain*) and of specified VAT amounts shows that the formal rate of 12 percent is not always identical to the effective burden in every transaction.⁶² This situation calls for normative clarity, so that taxpayers and consumers can know with certainty the object, the tax base, the exemptions, and the amount of the burden actually borne.

The public purpose of the 12 percent VAT policy can be read from the need to strengthen state revenue, to maintain the sustainability of the State Budget, and to finance public programs. That purpose is legitimate, because the state needs revenue in order to finance public services, social protection, development, and economic stability. A legal problem arises when the revenue purpose is severed from concrete public benefits. Greater revenue does not by itself prove that a tax policy is proportional if it is unaccompanied by an explanation of how the revenue will be used, of the protection afforded to vulnerable groups, and of its contribution to the quality of state expenditure.

Suitability of the instrument must be assessed by reference to the relationship between VAT and the purpose of fiscal strengthening. VAT has a broad base, is relatively stable, and is administratively easier to collect than several other types of tax. These features allow VAT to be regarded as a suitable instrument for strengthening state revenue. That suitability nonetheless remains limited, because VAT operates through consumption. An instrument that generates revenue easily is not necessarily the most appropriate one when it is applied at a time when the purchasing power of citizens is under pressure. The government must therefore show that the design of the 12 percent VAT policy, including its exemptions, facilities, and alternative tax base schemes, is genuinely directed toward reducing the policy's impact on basic needs and vulnerable groups.

The element of necessity tests whether the increase or adjustment of VAT is genuinely required under non-emergency economic pressure. It is not enough for the state to assert that revenue must be increased. The government must show that this choice was made after less burdensome alternatives had been considered, such as expenditure efficiency, evaluation of subsidies, control of leakage, expansion of tax compliance, enforcement against tax avoidance, and optimization of revenue from groups or sectors with greater economic capacity. Without such proof, the 12 percent VAT policy risks being viewed as a swift administrative choice rather than as a genuinely necessary fiscal one.

Balance of burden is the most sensitive element in assessing the 12 percent VAT policy. Consumption taxes may affect households broadly, because they are imposed on transactions in goods and services. Studies of taxation and public expenditure in Indonesia show that the effect of fiscal policy on poverty and inequality cannot be read from the revenue side alone but must also be assessed in terms of the design of expenditure and the protection afforded to vulnerable groups.⁶³ Studies of the distributional impact of changes in VAT policy in Indonesia

⁶² Indonesia, Minister of Finance Regulation Number 131 of 2024 concerning the Value Added Tax Treatment of Imports of Taxable Goods, Deliveries of Taxable Goods, Deliveries of Taxable Services, the Use of Intangible Taxable Goods from Outside the Customs Area within the Customs Area, and the Use of Taxable Services from Outside the Customs Area within the Customs Area; Indonesia, Minister of Finance Regulation Number 11 of 2025 concerning Provisions on Other Values as the Tax Base and Specified Amounts of Value Added Tax.

⁶³ Sailesh Tiwari et al., "Revisiting the Impact of Government Spending and Taxes on Poverty and Inequality in Indonesia" (Jakarta: World Bank, 2020).

likewise show the importance of examining the effect of VAT on inflation, poverty, inequality, and the purchasing power of citizens.⁶⁴ Balance of burden in the 12 percent VAT policy therefore depends heavily on the state's ability to prove that additional revenue does not place unreasonable pressure on vulnerable groups.

The technical design of VAT following the rate adjustment can be understood as an effort to manage the balance of burden. The use of an alternative tax base equal to eleven-twelfths of the import value, the selling price, or the consideration in certain provisions reflects an effort to distinguish the formal rate from the effective burden in particular transactions.⁶⁵ That effort is important, but it does not answer every proportionality question. The government must still explain openly which groups of goods and services are affected, which social groups are most likely to bear the final burden, and how the technical design relates to the protection of citizens' purchasing power.

Transparency and auditability are the next requirements. The 12 percent VAT policy must be accompanied by verifiable explanations of revenue projections, calculation bases, affected sectors, affected consumer groups, and plans for the use of revenue. Transparency is not sufficient if it explains only that the rate has been regulated by statute or by ministerial regulation. The public, the House of Representatives, and audit institutions must be able to assess whether the additional revenue is genuinely used for its stated purpose. State financial management must itself be conducted in an orderly, efficient, effective, transparent, and accountable manner, while taking into account a sense of justice and propriety.⁶⁶

Auditability connects the 12 percent VAT policy to state financial accountability. Revenue from VAT enters the State Budget cycle and must be capable of examination through the audit mechanism governing the management and accountability of state finances. The Audit Board holds the mandate to examine that management and accountability, so that accountability for VAT does not stop at collection but extends to the use of revenue.⁶⁷ An increase in tax revenue cannot be regarded as a fiscal success unless it is accompanied by quality in expenditure and accountability in the use of public funds.

Periodic evaluation is necessary because the 12 percent VAT policy is implemented under economic conditions that may change. Evaluation must assess whether the revenue purpose has been achieved, whether the effect on prices and purchasing power remains controlled, whether vulnerable groups are protected, and whether revenue is used in accordance with public purposes. Evaluation must also assess whether the technical regulation of the tax base and of specified amounts creates legal certainty or instead creates confusion for taxpayers and consumers. A tax policy initially justified by fiscal need may lose its legitimacy if its effects are not controlled or if its public benefits are not demonstrated.

The doctrine of open legal policy must still be applied proportionally in assessing the 12 percent VAT policy. Choices concerning tax rates and the design of fiscal policy fall within the policy space of lawmaking institutions. The Constitutional Court generally affords broad

⁶⁴ Nasrudin et al., "The Potential Distributional and Economic Wide Impact of the New Indonesia's VAT Law Implementation."

⁶⁵ Indonesia, Minister of Finance Regulation Number 131 of 2024, art. 3(3); Indonesia, Minister of Finance Regulation Number 11 of 2025.

⁶⁶ Indonesia, Law Number 17 of 2003 concerning State Finance, art. 3(1).

⁶⁷ Indonesia, The 1945 Constitution of the Republic of Indonesia, art. 23E; Indonesia, Law Number 15 of 2006 concerning the Audit Board.

space to those institutions so long as their choices are not manifestly arbitrary, do not violate constitutional rights, and do not contradict constitutional principles.⁶⁸ The tax proportionality test is therefore not intended to convert every objection to a tax rate into a ground for annulling a statute. The framework is more appropriately used as a layered accountability standard: the government applies it as an initial assessment, the House of Representatives applies it in deliberating statutes and the State Budget, the Audit Board applies it in examining the use of revenue, and the Constitutional Court applies it with caution where a manifestly unreasonable burden is alleged.

Applying the tax proportionality test to the 12 percent VAT policy shows that the policy has a legal basis and an acceptable public purpose. The suitability of the instrument may also be justified, because VAT has a broad revenue base. The critical points lie in the elements of necessity, balance of burden, transparency, auditability, and evaluation. The state must be able to prove that the 12 percent VAT policy is not merely the fastest way to strengthen the treasury but a necessary policy adopted after other alternatives were considered, designed with protection for vulnerable groups, and followed by accountability in the use of revenue.

The result of this application does not render the 12 percent VAT policy invalid. The assessment shows that legality and fiscal purpose are the starting points, not the end, of tax policy accountability. Under non-emergency economic pressure, the justification of tax policy must extend further, to proof of necessity, reasonableness of burden, openness in the use of revenue, and periodic evaluation. Understood in this way, the tax proportionality test is not merely a theoretical construction. It operates as a tool for assessing whether tax policy genuinely maintains a balance between the needs of the state and the protection of citizens.

CONCLUSION

Tax policy as an instrument of fiscal recovery under non-emergency economic pressure rests on a legitimate authority, but that authority is not unrestricted. Its legal limits do not rest on Article 23A of the 1945 Constitution alone. Article 23A supplies the legality threshold for taxation, whereas the substantive assessment of tax burdens must also be connected to the constitutional guarantees of legal certainty, the protection of property rights, and the social welfare orientation of the Indonesian constitutional economy. Non-emergency economic pressure does not supply a basis for the use of extraordinary authority. Tax policy can therefore be justified only where it is chosen rationally, is necessary, and is not used as a shortcut to cover expenditure inefficiency, budget leakage, or weak fiscal governance. This limit affirms that government fiscal discretion must continue to operate within the ordinary processes of policymaking, budget deliberation, oversight, and state financial accountability.

The tax proportionality test formulated in this article is an accountability framework for assessing the reasonableness of tax policy under non-emergency economic pressure. The framework combines elements of classical proportionality, the general principles of good governance, and state financial accountability through seven structured elements: legality, legitimate public purpose, suitability of the instrument, necessity, balance of burden, transparency and auditability, and periodic evaluation. These elements do not operate as a strict cumulative invalidation test. Legality functions as the initial threshold; legitimate purpose,

⁶⁸ Indonesia, Constitutional Court Decision Number 4/PUU-XIII/2015; Indonesia, Constitutional Court Decision Number 188/PUU-XXII/2024.

suitability of the instrument, necessity, and balance of burden operate as core justification elements, whereas transparency, auditability, and periodic evaluation operate as accountability indicators. Applying the framework to the 12 percent VAT policy shows that legality and fiscal purpose are only the starting points of justification. The critical points of consumption tax policy lie in proving necessity, protecting purchasing power, balancing burdens, ensuring openness in the use of revenue, and evaluating the effects of the policy on vulnerable groups.

Institutionally, the framework can be used only within the legal mandate of each institution. The Government may use it as an internal accountability standard when formulating tax policy, particularly in order to explain fiscal necessity, less burdensome alternatives, and the expected use of revenue. The House of Representatives may use it through its legislative, budgetary, and oversight functions when deliberating tax legislation and the State Budget. The Audit Board may use it only within its mandate to examine the management and accountability of state finances after revenue has entered the State Budget cycle, and not to determine the validity of tax rates before enactment. The Constitutional Court may use it as an aid to constitutional reasoning where tax legislation is challenged for allegedly creating a manifestly unreasonable burden. This allocation shows that the framework does not propose the creation of a new institution or the transfer of fiscal policy choices to courts or audit bodies. It offers a structured standard for strengthening accountability within existing constitutional and statutory mandates.

This article is limited to normative legal analysis and concentrates on revenue-raising taxes, particularly broad-based consumption taxes such as VAT. It does not claim that the same weighting applies automatically to redistributive taxes or to corrective taxes, because those categories may involve different justifications related to distributive justice, ability to pay, deterrence, or the internalization of social costs. Further research should therefore test this framework in two directions: first, by deepening the constitutional foundation of tax burden review in Indonesian law; and second, by conducting empirical studies of the distributional impact of consumption taxes, the effectiveness of expenditure financed by tax revenue, and institutional oversight practices governing tax policy under non-emergency economic pressure.

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