



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 11/PUU-XXIII/2025**

**Concerning**

**Constitutionality of the Increase in Value Added Tax Rates  
under the Tax Regulation Harmonization Law**

- Petitioners** : **Asmania, et al.**
- Type of Case** : Judicial Review of Law 7 of 2021 concerning Tax Regulation Harmonization (Law 7/2021) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial review of Article 4A paragraph (2) letter b and paragraph (3) letter a, letter g, letter j in Article 4 point 1 and Article 7 paragraph (1), paragraph (3) and paragraph (4) in Article 4 point 2 of Law 7/2021 against the 1945 Constitution of the Republic of Indonesia
- Verdict** : **On Preliminary Injunction:**  
To dismiss the petition for preliminary injunction of the Petitioners  
**On Subject Matter:**  
To dismiss the Petitioners' petition in its entirety
- Date of Decision** : Thursday, August 14, 2025
- Overview of Decision** :

Whereas the Petitioners are individual Indonesian citizens who work in various professional fields, who are also taxpayers and private legal entities, they believe that their constitutional rights are violated by the enactment of the norm of the Article *a quo*, namely Article 4A paragraph (2) letter b and paragraph (3) letters a, letter g, letter j in Article 4 point 1 and Article 7 paragraph (1), paragraph (3) and paragraph (4) in Article 4 point 2 of Law 7/2021.

With respect to the authority of the Court, since the Petitioners petition for a review of Law 7/2021 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

With respect to the legal standing of the Petitioners, the Petitioners believe that their constitutional rights are violated due to the enactment of Article 4A paragraph (2) letter b and paragraph (3) letter a, letter g, letter j in Article 4 point 1 and Article 7 paragraph (1), paragraph (3) and paragraph (4) in Article 4 point 2 of Law 7/2021, particularly with respect to increases in various basic necessities, health services, and other services that are also affected by the VAT increase set by the Government. In fact, according to the Petitioners, basic necessities and various public services should be exempt from the VAT increase, as

previously regulated under the VAT Law prior to its amendment by the Tax Regulation Harmonization Law. In its legal considerations, in relation to the legal standing, the Court is of the opinion that there appears to be a causal relationship between the Petitioners' presumption of loss of constitutional rights and the enactment of the article in the Law *a quo*, therefore if the petition is granted, such loss will not occur. Thus, regardless of whether the unconstitutionality of the norms being petitioned for review by the Petitioners is proven or not, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the petition *a quo*.

Furthermore, regarding the petition for preliminary injunction and the subject matter of the petition, the Court, in its consideration, substantially states as follows:

### **On Preliminary Injunction:**

With respect to the Petitioners' petition for a preliminary injunction, as affirmed in the Court's previous decisions, it is important to emphasize that judicial review of a law does not concern a dispute that directly affects the interests of specific parties and therefore is not adversarial or *inter partes* in nature, but rather constitutes a review of the validity of a general law applicable to all citizens (*erga omnes*). Accordingly, with respect to the petition *a quo* for preliminary injunction, it must be considered separately and on a case-by-case basis, to the extent that it is relevant and urgent to do so. However, after carefully examining the reasons submitted by the Petitioners in support of their petition for preliminary injunction, the Court finds no compelling grounds to postpone the enactment of Law Number 7 of 2021. Moreover, with respect to the said petition for preliminary injunction, in order to obtain a comprehensive explanation regarding the constitutional issues raised by the Petitioners, the Court needs to hear statements from the parties as referred to in Article 54 of the Constitutional Court Law. Therefore, the Court is of the opinion that the petition for preliminary injunction submitted by the Petitioners must be declared legally unjustifiable.

### **On the Merits**

- Whereas, after carefully examining the formulation of the Elucidation of Article 16B paragraph (1a) letter j number 1 in Article 4 number 6 of Law Number 7 of 2021 and comparing it with the formulation of the Elucidation of Article 4A paragraph (2) letter b of Law Number 42 of 2009, the Court finds that, in substance, the formulation remains the same as the one prior to the amendment, namely the phrase "basic necessities that are truly needed by the people include." The use of the word "include" in the Elucidation of Article 4A paragraph (2) letter b of Law Number 42 of 2009, which had been declared unconstitutional, has evidently been carried forward into the Elucidation of Article 16B paragraph (1a) letter j number 1 in Article 4 number 6 of Law Number 7 of 2021. Although the Petitioners do not specifically challenge the Elucidation of Article 16B paragraph (1a) letter j number 1 in Article 4 number 6 of Law Number 7 of 2021, given that the Elucidation *a quo* is closely related to the Petitioners' arguments, the Court considers it important to emphasize that, to date, it has no compelling reason to depart from its position as set forth in Constitutional Court Decision Number 39/PUU-XIV/2016. Accordingly, the term "include" in the Elucidation of Article 16B paragraph (1a) letter j number 1 in Article 4 number 6 of Law Number 7 of 2021 likewise does not have a limitative or restrictive meaning.
- Whereas with regard to the Petitioners' concerns that basic necessities essential to the people, health services, education services, and land and water public transportation services, as well as domestic air transportation services that form an inseparable part of international air transportation services, have been removed by Article 4A paragraph (2) letter b, paragraph (3) letter a, letter g, and letter j in Article 4 point 1 of Law Number 7 of 2021 and that such removal is alleged to be contrary to the 1945 Constitution, the Court, in its legal considerations, has stated that VAT exemption provisions are not imposed on goods or services that are not included as VAT objects. This is because the negative list principle adopted in the VAT Law stipulates that all goods and services constitute objects of VAT, unless otherwise provided in the VAT Law. The issue is that, from the outset,

Law Number 42 of 2009 contained Article 4A which provisions determined a list of goods and services exempt from Value Added Tax (non-taxable goods/non-taxable services). Such exemptions, in effect, resulted in all goods and services listed in the Elucidation of Article 4A of Law Number 42 of 2009 being entirely excluded from the scope of VAT. In this regard, the removal of basic necessities essential to the people, health services, education services, and public transportation services on land and water, as well as domestic air transportation services that form an inseparable part of international air transportation services, which were originally regulated under Article 4A of Law Number 42 of 2009, through the provisions of Article 4A paragraph (2) letter b, paragraph (3) letter a, letter g, and letter j in Article 4 point 1 of Law Number 7 of 2021, must be viewed together with the subsequent provisions of Article 16B and its Elucidation, as a single and integrated legislative amendment. Accordingly, certain goods and services that were previously not subject to VAT (non-taxable goods/non-taxable services) have become taxable goods and/or taxable services, but are granted VAT facilities pursuant to Article 16B as stipulated in Article 4 number 6 of Law Number 7 of 2021, such that their delivery is exempt from VAT. In this regard, Article 16B paragraph (1a), as stipulated in Article 4 number 6 of Law Number 7 of 2021, provides that VAT that is not collected in part or in full, or that is exempt from taxation, is intended to support the availability of certain goods and services that are strategic for national development, including basic necessities that are truly needed by the people, certain medical health services, education services, and public transportation services. This amendment was introduced to prioritize the principles of justice and legal certainty, optimize social benefits, and expand the tax base, as developments in time and technology may give rise to new variants of goods and services that are premium in nature and therefore should not be granted VAT incentives. Examples of such goods and services include premium basic necessities, VIP medical health services, and luxury transportation services. However, premium or luxury goods and services were previously included among the non-taxable objects under Article 4A paragraph (2) of Law Number 42 of 2009, which were not subject to VAT. Therefore, by transferring basic necessities that are truly needed by the people, as challenged by the Petitioners, to Article 16B paragraph (1a) letter j as provided in Article 4 number 6 of Law Number 7 of 2021, Article 4A paragraph (2) as stipulated in Article 4 point 1 of Law Number 7 of 2021 now only retains exemptions for: (1) money, gold bullion for the purpose of state foreign exchange reserves, religious services, and services provided by the Government in the course of general governmental functions; and (2) other objects that are subject to taxation by Regional Governments, namely goods in the form of food and beverages served in hotels, restaurants, eateries, stalls, and similar establishments, including food and beverages consumed on or off the premises, including those provided through catering services, as well as services in the form of arts and entertainment services, hotel services, parking facility services, and catering services [*vide* Article 4A paragraph (2) letters c and d, paragraph (3) letter f, letter h, letter l, letter m, letter n, and letter q in Article 4 point 1 of Law Number 7 of 2021].

Meanwhile, the goods and services referred to by the Petitioners have been removed from the category of VAT objects under Chapter III because they are granted VAT facilities in the form of a VAT exemption. Under this regulatory framework, the public as consumers are not subject to VAT on transactions involving the delivery of taxable goods and taxable services. In substance, this condition is equivalent to the situation prior to the enactment of Law Number 7 of 2021. The difference lies in the obligation of sellers who have been confirmed as Taxable Entrepreneurs to issue tax invoices for the delivery of taxable goods and/or taxable services that are granted VAT exemption facilities. This policy is intended to improve the tax database throughout each distribution chain and transaction of goods and/or services, thereby reducing opportunities for tax avoidance. For example, under the previous regime, premium basic necessities, VIP medical health services, or luxury transportation services were not clearly distinguished because they were grouped together under the provisions of Article 4A of Law Number 42 of 2009, as discussed above, which did not adequately ensure fairness in the imposition of VAT. However, the Court considers it important to emphasize that tax revenues, including value added tax (VAT), must be utilized to the greatest extent possible for the prosperity

of the people. Pursuant to the legal considerations above, the Petitioners' arguments challenging the provisions of Article 4A paragraph (2) letter b and paragraph (3) letter a, letter g, and letter j in Article 4 point 1 of Law Number 7 of 2021, on the grounds that these provisions fail to provide legal certainty and a guarantee of a decent standard of living due to difficulties in fulfilling basic necessities, accessing education and medical health services, as well as obtaining public transportation services on land and water and domestic air transportation services as an inseparable part of international air transportation, are legally unjustifiable and must therefore be dismissed.

- Furthermore, with regard to the Petitioners' arguments questioning the determination of the 12% VAT rate increase, namely, the alleged inconsistency between regulations, the existence of governmental discretion to adjust VAT rates within the range of 5% to 15% without clear indicators, and the determination of such rate changes through government regulations as stipulated in Article 7 paragraph (1), paragraph (3), and paragraph (4) in Article 4 point 2 of Law Number 7 of 2021, which, according to the Petitioners, do not guarantee legal certainty or a decent standard of living, the Court, in its legal considerations, affirms that pursuant to Article 23A of the 1945 Constitution of the Republic of Indonesia, changes to tax rates, including VAT, are constitutionally permissible provided they are determined by law. In this regard, the lawmakers agreed to set the VAT rate at 11% (eleven percent), effective as of April 1, 2022, and at 12% (twelve percent), effective at the latest January 1, 2025. Concurrently with the implementation of these changes to the VAT rates, the Government also introduced various incentive measures aimed at alleviating the burden on the public. Without the Court intending to assess the legality of Minister of Finance Regulation Number 131 of 2024 concerning Value Added Tax Treatment on the Import of Taxable Goods, the Delivery of Taxable Goods, the Delivery of Taxable Services, the Utilization of Intangible Taxable Goods from Outside the Customs Area within the Customs Area, and the Utilization of Taxable Services from Outside the Customs Area within the Customs Area, the Government has regulated provisions concerning the Taxable Base for Other Values in order to effectively maintain the VAT burden at a level equivalent to that borne by consumers when the VAT rate was 11%. Minister of Finance Regulation Number 131 of 2024 does not amend or regulate the VAT rate stipulated in Law Number 7 of 2021 at 12%, but solely governs the Taxable Base for other values, an authority expressly delegated by law to the Minister of Finance. Accordingly, the Petitioners' argument alleging a contradiction between Law Number 7 of 2021, which provides that the 12% VAT rate shall take effect on January 1, 2025, and Minister of Finance Regulation Number 131 of 2024 is incorrect. In essence, the two instruments regulate different matters: Article 7 paragraph (1) in Article 4 point 2 of Law Number 7 of 2021 determines the increase of the VAT rate to 12%, whereas Minister of Finance Regulation Number 131 of 2024 regulates the Taxable Base for other values as the basis for adjusting VAT calculations so as to effectively maintain the VAT burden at a level equivalent to 11%. In other words, Minister of Finance Regulation Number 131 of 2024 does not serve as the implementing regulation of the "tariff provision" in Article 4 point 2 of Law Number 7 of 2021, which amends Article 7 paragraph (1) of Law Number 42 of 2009. Pursuant to these legal considerations, the Petitioners' contention regarding regulatory inconsistency lacks legal basis and must therefore be declared legally unjustifiable.
- Whereas, furthermore, with regard to the Petitioners' arguments questioning the constitutionality of the norms of Article 7 paragraph (3) and paragraph (4) in Article 4 point 2 of Law Number 7 of 2021, on the grounds that these provisions grant the Government discretion to adjust VAT rates within the range of 5% to 15% without clear indicators and allow such adjustments to be determined by government regulations, the Court is of the view that such discretion remains constitutional, to the extent that it does not exceed the highest rate as determined by the Law *a quo* and it is proposed by the Government to the House of Representatives to be discussed and jointly approved in the process of preparing the Draft State Revenue and Expenditure Budget, such determination is in accordance with Article 23A of the 1945 Constitution of the Republic of Indonesia. In this regard, the House of Representatives, as the representative institution

of the people, possesses the authority to discuss and approve changes to VAT rates in the preparation of the Draft State Revenue and Expenditure Budget. This mechanism demonstrates that changes to VAT rates cannot be made unilaterally by the Government, but must instead pass through a joint decision-making process involving both the executive and legislative branches. Accordingly, any decision to adjust the VAT rate is grounded in a transparent and accountable legal framework. In this regard, the determination of VAT rates within the range of 5% to 15%, as regulated in the provisions of the article *a quo*, constitutes a flexible fiscal policy instrument that enables the Government to adjust tax rates in accordance with national economic conditions and fiscal needs, while still taking into account the socio-economic circumstances of the community. Furthermore, the determination of VAT rates within the said range through Government Regulations may only be carried out by the Government after such rates have been proposed to the House of Representatives of the Republic of Indonesia for discussion and joint approval in the process of preparing the Draft State Revenue and Expenditure Budget [*vide* Article 7 paragraph (4) in Article 4 point 2 of Law Number 7 of 2021]. Accordingly, the formulation of Government Regulations as a form of delegated legislation remains within the framework of the constitutional functions of the House of Representatives, as it can still be assessed as fulfilling the principle of no taxation without representation.

- Whereas pursuant to the legal considerations above, the Petitioners' arguments questioning the constitutionality of the norms of Article 7 paragraph (3) and paragraph (4) in Article 4 point 2 of Law Number 7 of 2021, on the grounds that such norms fail to provide guarantee of legal certainty and decent standard of living, are unfounded and must therefore be declared legally unjustifiable.
- Whereas pursuant to the entire description of the legal considerations above, the norm of Article 4A paragraph (2) letter b and paragraph (3) letter a, letter g, letter j in Article 4 point 1 and Article 7 paragraph (1), paragraph (3) and paragraph (4) in Article 4 point 2 of Law 7/2021 has evidently not created fair legal uncertainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution as argued by the Petitioners. Therefore, the Petitioner's argument is entirely legally unjustifiable.

Accordingly, the Court subsequently passes down a decision, the verdict of which states as follows:

**On Preliminary Injunction:**

To dismiss the petition for preliminary injunction of the Petitioners.

**On the Merits:**

To dismiss the Petitioners' petition in its entirety.