

Oleh
Andi Faathir Oky Juliantono¹ dan Irna Nurhayati²

INTISARI

Penelitian ini bertujuan untuk mengkaji dampak terbitnya Daftar Positif Investasi terhadap kegiatan penanaman modal di Indonesia khususnya kegiatan penanaman modal yang bergerak dalam bidang usaha industri miras berdasarkan UU 25/2007 Tentang Penanaman Modal beserta turunannya yaitu Peraturan Presiden Nomor 49/2021 Tentang Perubahan Atas Peraturan Presiden Nomor 10/2021 Tentang Bidang Usaha Penanaman Modal dan juga peraturan perundang-undangan lainnya yang berlaku mengenai legalitas miras kemudian dikaitkan dengan aspek hukum Islam, sosial dan budaya yang berlaku di Indonesia.

Metode penelitian tesis ini berjenis penelitian yuridis normatif, yaitu sebuah penelitian hukum yang normatif biasanya hanya berdasar pada studi dokumen, yaitu menggunakan sumber-sumber data sekunder saja yang berupa peraturan-peraturan, perundang-undangan, keputusan pengadilan, teori-teori hukum, dan pendapat para ahli hukum. Metode Pendekatan yang digunakan penelitian ini adapun permasalahan *in concreto* yang diteliti yaitu mengenai permasalahan apa saja yang termasuk dalam Daftar Positif Investasi.

Hasil penelitian tesis ini dapat disimpulkan bahwa setelah diterbitkannya Daftar Positif Investasi terhadap kegiatan penanaman modal di Indonesia, bidang usaha industri miras dinyatakan kembali sebagai bidang usaha yang tertutup, namun untuk bidang usaha perdagangan miras tetap dinyatakan sebagai bidang usaha terbuka bagi penanaman modal yang dibatasi secara ketat serta diatur dalam peraturan perundang-undangan yang berlaku. Penerapan *National Treatment Principle* dalam Daftar Positif Investasi sesuai Peraturan Presiden Nomor 49/2021 Tentang Bidang Usaha Penanaman Modal telah sesuai dengan amanat Pasal 6 Ayat (1) dan (2), Pasal 7, Pasal 8 Ayat (5) dan Pasal 9 UU 25/2007 tentang Penanaman Modal.

Kata Kunci: Daftar Positif Investasi, Investasi Miras, Penanam Modal Asing.

¹ Mahasiswa Program S-2 Magister Hukum Bisnis Universitas Gadjah Mada Kampus Jakarta (andifaathir95@mail.ugm.ac.id)

² Dosen Program S-2 Magister Hukum Bisnis Universitas Gadjah Mada Yogyakarta (irna.nurhayati@law.ugm.ac.id)

By:

Andi Faathir Oky¹ Julianono and Irna Nurhayati²

ABSTRACT

This study aims to examine the impact of the publication of the Positive Investment List on investment activities in Indonesia, especially investment activities engaged in the liquor industry based on Law Number 25 of 2007 concerning Investment and its derivatives, namely Presidential Regulation Number 49 of 2021 concerning Amendments to Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector as well as other applicable laws and regulations regarding alcohol law then apply to aspects of Islamic, social and cultural law in Indonesia. Another objective of this research is to analyze the application of the Non-Discrimination Principle and National Treatment Principle in the Positive Investment List according to Presidential Regulation Number 49 of 2021 concerning Amendments to Presidential Regulation Number 10 of 2021 concerning the Investment Business Sector.

This research belongs to the type of normative juridical research, which is normative legal research usually only based on document studies, which uses only secondary data sources in the form of regulations, laws, court decisions, legal theories, and opinions of experts. lawyer. The approach method used in this research is the concrete problems that must be investigated, namely what problems are included in the Positive Investment List.

Based on the results of the research and discussion, it can be concluded that the impact of the issuance of the Positive Investment List on investment activities in Indonesia, the alcohol industry business sector as restated as closed business field, but for the alcohol trading business sector it was still declared as an open business sector which strictly restricted by applicable laws. The application of National Treatment Principle in Positive Investment List has been accordance with the mandate of Article 6 Paragraphs (1) and (2), Article 7, Article 8 Paragraph (5) and Article 9 of Law Number 25 Year 2007 on Investment.

Keyword: Positive List Investment, Alcohol Investments, Foreign Investor

¹ Student of Master Program in Business Law, Gadjah Mada University, Jakarta (andifaathir95@mail.ugm.ac.id)

² Lecture of Master Program in Business Law, Gadjah Mada University Yogyakarta (irna.nurhayati@law.ugm.ac.id)

