



Research Article



Tax Conflicts Policy in Thrifting between Trade Law and Tax Law

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Abstract: The rapid expansion of thrifting practices in Indonesia has generated complex legal challenges, particularly at the intersection of trade law and tax law. This condition gives rise to a policy conflict in which thrifting activities, although prohibited under trade regulations, continue to generate economic transactions that may fall within the scope of taxation. This study adopts a normative juridical approach to examine the nature of this conflict and to assess potential regulatory responses. The analysis demonstrates that imposing taxation on economic activities derived from prohibited imports creates legal ambiguity and risks undermining the enforcement of trade law by implicitly legitimizing unlawful practices. Accordingly, the principle of legality within the tax system must be upheld by ensuring that taxation aligns with the normative framework governing trade. This study proposes a regulatory harmonization model that integrates trade, taxation, and customs policies through the reconstruction of legal norms, the strengthening of cross sectoral supervision, and the clarification of legal boundaries concerning taxable activities. Such harmonization is necessary to establish legal certainty, prevent regulatory loopholes, and ensure that fiscal policy operates consistently with national legal and economic objectives.

Keywords: Conflicts; Tax Law; Thrifting; Trade Law; Policy;



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INTRODUCTION

The contemporary trade landscape within the textile industry is undergoing a significant transformation, propelled in part by the escalating practice of trading second-hand apparel, commonly referred to as thrifting. This phenomenon is no longer merely perceived as an affordable form of alternative consumption;¹ rather, it reflects a societal lifestyle shift influenced by global trends, heightened awareness of sustainability issues, and the evolving dynamics of digital markets.² Historically, second-hand clothing was primarily exchanged as surplus goods or specific raw materials. However, concurrent with market expansion and surging consumer interest, used apparel has transformed into a commodity that incites multifaceted debates due to its implications spanning economic, social, environmental, and legal dimensions. This development is also inextricably linked to the fast-fashion business model, which

¹ Yang Liu and others, 'Effects of Importing Second-Hand Clothes on Supply Chains: Insights for Africa's Textiles and Apparel Industry', *Supply Chain Forum: An International Journal*, 26.2 (2025), 240–54 <https://doi.org/10.1080/16258312.2024.2418793>

² Yulianto Syahyu, 'The Influence of Illegal Second-Hand Clothing Imports and the Impact on Local Industries: Indonesian Legal Studies', *International Journal of Research and Review*, 12.1 (2025), 640–49 <https://doi.org/10.52403/ijrr.20250172>



accelerates the cycles of apparel production and consumption. Such a model contributes to the degradation of product quality, abbreviated garment lifespans, and a proliferation of discarded clothing that ultimately culminates as either donations or outright waste.³ These circumstances underscore that the thrifting trade must not be comprehended strictly as a commercial activity, as it is also assessed to potentially pose a threat to the stability of the national textile industry, public health, and state sovereignty within the global trading system.⁴

Indonesia, as a prominent destination for imported used clothing, resides at the epicenter of this complex predicament. The substantial domestic market demand for affordable apparel, particularly among lower-income demographics, has contributed to the pervasive consumption of these commodities.⁵ Beneath its popularity, thrifting engenders intricate legal complications, as it directly contravenes the long-standing governmental prohibition on the importation of second-hand clothing. The friction between a factual, pervasive economic practice and the formal legal norms that prohibit it has precipitated a regulatory conflict that can no longer be disregarded.⁶ Toward the end of 2024 and leading into 2025, the Indonesian government intensified its efforts to curtail this phenomenon. In response, a series of regulations has been enacted to suppress the importation of used apparel. Originating with the Minister of Trade Regulation Number 230 of 1977, and most recently updated via Regulation Number 40 of 2022, these policies aim to safeguard national economic interests, ensure product safety, and mitigate the environmental degradation associated with textile waste.⁷

The contemporary crisis is characterized by dramatic shifts in trade statistics and regulatory responses. According to UN Comtrade data, Indonesia has experienced a massive regulatory response. Based on data from Statistics Indonesia (BPS), the importation of used clothing into Indonesia remains notably high. During the January–August 2025 period, the surge in the volume of imported used clothing to Indonesia reached 1,242.8 tons, with an import value of US\$1.55 million. Furthermore, in 2024, the import volume of used apparel peaked at approximately 3.87 thousand tons, valued at US\$1.5 million, in stark contrast to a mere 12.8 tons in 2023. The average proportion of used clothing imports compared to the importation of new, legally authorized ready-to-wear apparel from 2020 to 2025 reached 48 percent. This figure is deemed significantly high and highly disruptive to the domestic market. This exponential growth signifies a failure in conventional border controls and the emergence of sophisticated informal supply chains involving illicit importers

³ Lydia Ayorkor Manieson and Tiziana Ferrero-Regis, 'Castoff from the West, Pearls in Kantamanto? A Critique of Second-hand Clothes Trade', *Journal of Industrial Ecology*, 27.3 (2023), 811–21 <https://doi.org/10.1111/jiec.13238>

⁴ Emilia Esa Wardana and Hardian Iskandar, 'Legal Protection of Thrift Trade in Indonesia', *Journal of Law, Politic and Humanities*, 5.1 (2024), 242–48 <https://doi.org/10.38035/jlph.v5i1.905>

⁵ Andrew Brooks, 'The International Second-Hand Clothing Trade: Contributions to Sustainability and the Circular Economy', *Sustainability*, 17.18 (2025), 8397 <https://doi.org/10.3390/su17188397>

⁶ Peter Davis Sumo and others, 'An Assessment of Africa's Second-Hand Clothing Value Chain: A Systematic Review and Research Opportunities', *Textile Research Journal*, 93.19–20 (2023), 4701–19 <https://doi.org/10.1177/00405175231175057>

⁷ Natasya Aretha Amelia and Andi Purnawarman, 'The Impact of the Secondhand Clothing Import Ban Policy on the Trade of Used Garments', *Research Horizon*, 5.4 (2025) <https://doi.org/10.54518/rh.5.4.2025.716>



and digital retail platforms. Consequently, this condition positions thrifting practices not merely as a trade issue but also as a profound matter of legal governance and state authority, particularly where existing regulations have proven ineffective in curtailing the influx of illegal goods.⁸

From a theoretical standpoint, the phenomenon of second-hand apparel consumption in Indonesia can be construed as a manifestation of irrational consumptive behavior, propelled more by the pursuit of prestige and a social lifestyle image among the youth than by genuine economic necessity.⁹ Numerous studies indicate that adolescents, constituting the primary demographic within this consumption pattern, tend to prioritize brand allure and relatively low prices, often marginalizing the legal ramifications and health risks associated with their purchases.¹⁰ This predicament subsequently engenders what is frequently characterized as a 'legal grey area', a situation wherein business operators endeavour to legitimize their commercial activities through compliance with tax obligations. Nevertheless, the government maintains the stance that the traded commodities are fundamentally prohibited from importation and constitute illicit goods. In this context, Minister of Finance Purbaya Yudhi Sadewa emphasized that the remittance of taxes does not inherently confer legality upon goods barred from domestic entry, even drawing a parallel to scenarios where taxes may be levied on commodities that remain legally classified as illicit.¹¹

From this perspective, taxation is frequently construed as a neutral instrument designed to balance the state's imperative to generate revenue with the interests of commercial actors, without necessitating the direct revocation of prohibitions on specific imported goods. Nevertheless, this approach precipitates fundamental inquiries regarding the boundaries of fiscal authority within the Indonesian legal framework, particularly concerning the legitimacy of levying taxes upon objects that are normatively proscribed under distinct legal regimes.¹² The primary predicament that emerges is whether the state possesses the jurisdiction to tax illicit activities, particularly given the distinction between informally unregulated economic endeavours and activities unequivocally prohibited by law.¹³ Numerous studies indicate that policies excessively oriented toward state revenue optimization harbour the potential to generate unintended consequences, such as incentivizing the

⁸ Meiko Fairuzia Ardiany and Mas Rahmah, 'Sustainable Fashion: Second-Hand Fashion Trends and Its Impact on Local Fashion Brands in Indonesia', *Journal of Governance Risk Management Compliance and Sustainability*, 5.2 (2025) <https://doi.org/10.31098/jgrcs.v5i2.3499>

⁹ Jhanghiz Syahrivar and others, 'No Longer Look down: Investigating Second-Hand Clothing Purchase in Indonesia', *International Review on Public and Nonprofit Marketing*, 20.2 (2023), 319–39 <https://doi.org/10.1007/s12208-022-00341-7>

¹⁰ Fei Zhang and others, 'Research on the Impact of Matched Effects between Green Advertising Appeals and Product Type on Consumer Purchase Intention', *Journal of Retailing and Consumer Services*, 85 (2025), 104265 <https://doi.org/10.1016/j.jretconser.2025.104265>

¹¹ Mohammad Ilham Prasetyo, Mohammad Ilham Prasetyo, and Evan Novika Ramdhani, 'Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective', *Journal of Smart Pedagogy and Education*, 1.2 (2025), 40–53 <https://doi.org/10.65101/spedu.v1i2.137>

¹² Jennifer Layle Oliveira Diniz and Jean Victor Veiga Mendonça, 'A TRIBUTAÇÃO DE ATOS ILÍCITOS E O PRINCÍPIO PECUNIA NON OLET', *ARACÉ*, 7.1 (2025), 1956–73 <https://doi.org/10.56238/arev7n1-118>

¹³ Ioana Alexandra Horodnic and others, 'Who Purchases From the Informal Economy and Why?', *Frontiers in Psychology*, 13 (2022) <https://doi.org/10.3389/fpsyg.2022.940076>



proliferation of illicit practices if taxation mechanisms are not meticulously designed. Furthermore, an inordinate emphasis on state revenue optimization may obscure the primary objective of enforcing prohibitions against unlawful acts.¹⁴

This predicament affirms that tax law and trade law possess distinct characteristics, objectives, and regulatory logic, despite coexisting within a singular national legal framework. Tax law is fundamentally oriented toward the mobilization of state revenue, predicated upon the principles of legality, legal certainty, and fiscal justice. Conversely, trade law predominantly emphasizes the regulation of the cross-border movement of goods, the safeguarding of national interests, and the structuring of market mechanisms.¹⁵ When these dual legal regimes intersect over an identical object, the potential for jurisdictional conflicts becomes virtually inescapable. Absent a lucid conceptual framework, such intersections risk engendering contradictory policies and practical ambiguities, potentially creating loopholes for commercial actors to exploit regulatory a synchronousness to circumvent trade law provisions.¹⁶ Conflicts of this nature frequently manifest within the customs law regime, a vital component of trade law, wherein the harmonization of national regulations and international provisions is of paramount importance. Indeed, tariff policies initially conceived to protect domestic interests harbor the potential to precipitate international trade disputes if not meticulously aligned with prevailing international agreements or commitments.¹⁷

The conflict between tax law and trade law within the thrifting sector underscores broader challenges concerning cross-sectoral policy coordination and harmonization. Each legal regime tends to operate in accordance with its own internal logic, frequently harboring divergent priorities, which can precipitate policy fragmentation and inconsistency.¹⁸ For instance, endeavors to safeguard the domestic textile industry via import tariffs necessitate meticulous regulatory harmonization to avert market distortions or unintended consequences that could undermine the original policy objectives.¹⁹ Addressing cross-sectoral policy predicaments demands a comprehensive approach encompassing the articulation of lucid objectives, the integration of target demographics, and robust inter-agency coordination.²⁰ Absent an integrated framework, policies may inadvertently negate or attenuate one another, particularly

¹⁴ Rita de la Feria, 'Tax Fraud and Selective Law Enforcement', *Journal of Law and Society*, 47.2 (2020), 240–70 <https://doi.org/10.1111/jols.12221>

¹⁵ Arina IImalhaq, Mahir Pradana, and Nurafni Rubiyanti, 'Indonesian Local Second-Hand Clothing: Mindful Consumption with Stimulus-Organism-Response (SOR) Model', *Discover Sustainability*, 5.1 (2024), 251 <https://doi.org/10.1007/s43621-024-00481-2>

¹⁶ Kowsar Yousefi and Samad Alaamati, 'Traders' War Against Trade Walls: Evidence From Import Prohibition in Iran', *SSRN Electronic Journal*, 2023 <https://doi.org/10.2139/ssrn.4632973>

¹⁷ Rafael Tamayo-Álvarez, 'The Strategic Use of International Investment Law in Colombia – Textiles: Navigating within the International Regime Complex for Development', *Law and Development Review*, 13.1 (2020), 31–58 <https://doi.org/10.1515/ldr-2018-0080>

¹⁸ Kwadwo Yeboah Botah, 'Integrasi Kebijakan Sektor: Potensi dan Hambatan dalam Dunia yang Kompleks dan Saling Terhubung', *Jurnal Isu Sosial dan Kebijakan*, 3.3 (2023), 156–62 <https://doi.org/10.58835/jspi.v3i3.210>

¹⁹ Jay Maulana, I Made Sarjana, dan I Gusti Agung Mas Rwa Jayantiari, 'Harmonisasi Bea Masuk Berupa Tindakan Pengamanan Produk Tekstil', *Jurnal Magister Hukum Udayana (Jurnal Magister Hukum Udayana)*, 12.2 (2023), 242–57 <https://doi.org/10.24843/JMHU.2023.v12.i0>

²⁰ Ruth Wiedemann dan Karin Ingold, 'Memecahkan Masalah Kebijakan Lintas Sektor: Menambahkan Dimensi Lintas Sektor untuk Menilai Kinerja Kebijakan', *Jurnal Kebijakan & Perencanaan Lingkungan*, 24.5 (2022), 526–39 <https://doi.org/10.1080/1523908X.2021.1960809>



when navigating potentially antithetical goals such as economic expansion and environmental sustainability.²¹ Consequently, the development of a coherent policy framework is imperative to preclude normative ambiguities that could prove detrimental to the state, commercial actors, and the broader public.²²

Previous research has extensively analyzed the normative juridical aspects of the prohibition on thrifting activities. For instance, research by Ralex Arnolda et al. (2025) demonstrates that the threat posed by imported used clothing ranges from a moderate to a severe tier, as it can precipitate shocks to industrial and economic output, escalate unemployment, destabilize exchange rates and foreign exchange reserves, and present public health hazards; if left unaddressed, this latent threat could culminate in profound social and economic risks.²³ Furthermore, Galih Bagas Soesilo et al. (2025) highlight the detrimental impact of used clothing imports or thrifting activities on local Micro, Small, and Medium Enterprises (MSMEs), estimating a market share contraction of 12 to 15 percent for domestic manufacturers.²⁴ Additionally, Mohammad Ilham Prasetyo and Evan Novika Ramdhani (2025) underscore that aggressive law enforcement fails to address the root cause, namely irrational consumer behavior; although merchants seek legitimacy through tax remittances, the government maintains that fiscal compliance cannot validate the illicit importation of used apparel.²⁵ Natasya Aretha Amelia and Andi Purnawarman (2025) point out that the import prohibition has not completely eradicated the trade in second-hand clothing.²⁶ Lastly, Debanjas Das (2025) emphasizes that while the thrifting trend is accelerating rapidly, a significant portion of thrifted commodities are poorly manufactured, thereby creating substantial challenges for merchants attempting to resell them in destination markets.²⁷

Nevertheless, a conspicuous gap exists in previous literature concerning the aspect of tax collection being construed as a legitimizing factor for prohibited imports, which precipitates a divergence between the objectives of trade law and tax law. Consequently, the urgency of this study is anchored in the dual threats engendered by the pervasive presumption that tax remittance confers legality upon the trade of second-hand apparel or thrifting, *first*, the potential attenuation of the efficacy of the import prohibition policy on used goods stipulated within the trade law regime; and *second* the emergence of legal uncertainty that commercial actors can exploit to circumvent trade provisions under the guise of fiscal compliance. In light of these

²¹ Hannah Kosow dan Christian D. Jehle, Wolfgang Weimer León, 'Merancang Campuran Kebijakan yang Sinergis dan Berkelanjutan - Sebuah Metodologi untuk Mengatasi Isu Lingkungan yang Konflikatif', *Environmental Science & Policy*, 130 (2022), 36–46 <https://doi.org/10.1016/j.envsci.2022.01.007>

²² Ardiany dan Rahmah.

²³ Ralex Arnolda, A. Victoria Rahajeng Widyarsih, and Amril Gaffar Sunny, 'The Role of Intelligence in Countering the Threat of Used Imported Clothing Smuggling to Indonesia's Economic Security', *Security Intelligence Terrorism Journal (SITJ)*, 2.3 (2025), 246–52 <https://doi.org/10.70710/sitj.v2i3.58>

²⁴ Galih Bagas Soesilo and others, 'Consumer Protection in Indonesia's Thrift Fashion Boom: Challenges, Obstacles, and Policy Implications', *Journal of Judicial Review*, 27.1 (2025), 1–22 <https://doi.org/10.37253/jjr.v27i1.9457>

²⁵ Prasetyo, Prasetyo, and Ramdhani, 'Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective'.

²⁶ Amelia and Purnawarman.

²⁷ Debanjan Das, 'Secondhand Clothing in Global Commerce: Trade Patterns and Impact', *Commodities*, 4.1 (2025), 3 <https://doi.org/10.3390/commodities4010003>



considerations, this research introduces scientific novelty through two primary contributions, *first*, offering a conceptual analysis of the policy conflict between trade law and tax law within the context of the thrifting trade; and *second*, analyzing strategies for resolving tax-related predicaments inherent in thrifting practices. Furthermore, this study is directed toward addressing two fundamental research questions, *first*, what is the nature of the policy conflict between trade law and tax law within thrifting practices in Indonesia; and *second*, what policy model can be developed to mitigate regulatory conflicts between trade law and tax law concerning thrifting practices.

METHOD

This study employs a normative legal research method focusing on the analysis of regulatory conflicts between tax law and trade law in the practice of thrifting in Indonesia. The research examines how different legal regimes regulate economic activities related to second-hand clothing trade, particularly concerning the legality of imported used goods, taxation principles, and the legal consequences arising from economic transactions involving prohibited commodities. The doctrinal approach is applied through the analysis of primary legal sources, including Law Number 7 of 2014 on Trade, Law Number 17 of 2006 on Customs, Law Number 7 of 1983 on Income Tax, and Law Number 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods. In addition, several implementing regulations are examined, including Regulation of the Minister of Trade Number 40 of 2022 concerning Goods Prohibited from Export and Import, Regulation of the Minister of Trade Number 31 of 2023 on Electronic Commerce, and relevant Minister of Finance Regulations concerning import tariff classification and taxation mechanisms.²⁸

This study further reviews secondary legal materials consisting of academic literature, scholarly journals, policy reports, and previous research addressing the regulation of second-hand clothing trade, taxation of informal economic activities, and the relationship between fiscal policy and trade regulation. These materials are utilized to examine the doctrinal foundations of taxation principles, particularly the principle of legality, fiscal neutrality, and the boundaries of taxation authority in relation to prohibited economic activities.²⁹ Furthermore, the research adopts a conceptual and regulatory harmonization approach to analyze the interaction between trade policy and taxation policy within the Indonesian legal system. Through interpretative legal analysis, the study seeks to identify normative inconsistencies between regulatory frameworks and to formulate a policy model aimed at harmonizing trade law, tax law, and customs law.³⁰ This approach is intended to provide conceptual insights into the development of an integrated regulatory framework capable of minimizing policy conflicts, ensuring legal certainty, and supporting sustainable economic governance.

²⁸ Putri Army, 'Penegakan Hukum Terhadap Larangan Bisnis Pakaian Bekas Impor (Studi Kasus Di Dinas Perdagangan Kab. Lombok Timur)', *JURIDICA : Jurnal Fakultas Hukum Universitas Gunung Rinjani*, 5.1 (2023), 45–53 <https://doi.org/10.46601/juridicaugr.v5i1.232>

²⁹ Mark Van Hoecke, 'Methodology of Comparative Legal Research', *Recht En Methode in Onderzoek En Onderwijs*, 2016 <https://doi.org/10.5553/rem/.000010>

³⁰ Mohammad Ilham Prasetyo, Mohammad Ilham Prasetyo, and Evan Novika Ramdhani, 'Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective', *Journal of Smart Pedagogy and Education*, 1.2 (2025), 40–53 <https://doi.org/10.65101/spedu.v1i2.137>



RESULT AND DISCUSSION

Analysis of Tax Conflicts Policy in Thrifting

The legality of thrifting activities in Indonesia cannot be construed as a static concept; rather, it constitutes a dynamic phenomenon reflecting the tension between robust consumer demand and state protectionist policies. On one hand, thrifting practices are proliferating rapidly as an integral component of modern consumption patterns, offering affordable alternatives for branded merchandise.³¹ Conversely, the state endeavors to preserve domestic industrial stability and safeguard national interests through various trade regulatory instruments. Normatively, the legal framework governing this issue is anchored in Law Number 7 of 2014 concerning Trade, which stipulates that, in principle, every imported commodity must be in new condition, unless the government grants specific exemptions.³² This provision is subsequently operationalized through various technical regulations within the trade sector. One of the most pertinent regulations is the Minister of Trade Regulation Number 40 of 2022, which explicitly designates used clothing, used bags, and used sacks under HS code 6309.00.00 as commodities prohibited from importation into the territory of the Republic of Indonesia. Various regulations pertaining to the legality of thrifting practices are delineated in the following table.³³

Table 1. Primary Regulatory Framework for Thrifting Legality

Legal Instrument	Core Provision	Impact on Thrifting Industry
Law No. 7 of 2014	Mandatory “new” status for imports	Renders almost all imported used goods illegal by default.
Permendag 40 of 2022	Prohibition of HS Code 6309.00.00	Specially bans used clothing, bags, and sacks.
Law No. 8 of 1999	Consumer health and safety standards	Justifies bans based on bacterial/fungal contamination risk.
Permendag 23 of 2025	Mandatory IT, PI, and LS verification	Tightens post-border controls for all consumer goods (Aug 2025).
Permendag 31 of 2023	Electronic commerce licensing	Forces e-commerce platforms to take down illegal thrift sellers.

Source: Prasetyo et al (2025)³⁴

³¹ Annuska Toebast-Wensink and others, ‘Aligning Perspectives: Retailers and Generation Z Consumers in the Second-Hand Fashion Market’, *Journal of Fashion Marketing and Management: An International Journal*, 30.2 (2026), 344–63 <https://doi.org/10.1108/JFMM-04-2025-0188>

³² Jamil Afzal, ‘Legal Framework of Globalization of the Economy and Digital Trade’, in *Exploring the New Horizons of International Law Concerning Globalization of Economy* (Singapore: Springer Nature Singapore, 2025), pp. 35–51 https://doi.org/10.1007/978-981-95-1312-3_3

³³ Risma Dewi Hermawan, Rina Arum Prastyanti, and Aris Prio Agus Santoso, ‘Implementation of Minister of Trade Regulation Number 40 of 2022 Concerning Prohibition of Trade in Imported Used Clothing in the City of Surakarta’, *JIHAD: Jurnal Ilmu Hukum Dan Administrasi*, 6.3 (2024) <https://doi.org/10.58258/jihad.v6i3.7272>

³⁴ Prasetyo, Prasetyo, and Ramdhani, ‘Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective’.



Based on the table above, the implementation of trade law enforcement against the importation of used clothing is founded on several primary considerations. *First*, from the perspective of economic protection, imported used clothing is generally sold at prices significantly lower than the production costs incurred by domestic micro, small, and medium enterprises (MSMEs) in the textile sector. This condition has the potential to create uneven competition and threaten the sustainability of the domestic textile industry.³⁵ *Second*, there is a public health consideration, predicated on laboratory research findings indicating that used clothing potentially harbors various pathogens, such as bacteria and fungi, which in certain instances can survive even after independent laundering.³⁶ *Third*, from an environmental standpoint, the importation of used clothing is frequently perceived as a form of cross-border textile waste transfer. Within this perspective, these commodities are categorized as "imported waste," which ultimately shifts the responsibility of textile waste management from developed nations to receiving countries, including Indonesia.³⁷

Although the trade law framework explicitly prohibits the existence of thrifting merchants, in practice, economic activities related to the thrifting trade continue to operate extensively within the domestic market, through both physical storefronts and electronic commerce platforms.³⁸ This condition subsequently engenders a novel predicament from the perspective of tax law. Within the Indonesian taxation system, any economic activity that generates value-added can, in principle, constitute an object of taxation, irrespective of the legality status of the traded commodities. In other words, if there is transactional activity yielding profit or income, tax obligations can still arise for business operators.³⁹ This situation precipitates a policy conflict between the trade law regime and the tax law regime. On one hand, trade law designates imported used clothing as goods prohibited from entering Indonesian territory. On the other hand, tax law retains the potential to impose fiscal obligations on trading activities occurring within the domestic market, including on commercial actors trading these used goods. This regulatory asynchronism creates interpretative loopholes frequently exploited by business operators to argue that compliance with tax obligations can serve as a form of legitimacy for their commercial activities.⁴⁰

This precipitates a substantial tension, particularly in relation to tax obligations. Thrifting business operators contend that their activities ought to be perceived as an

³⁵ Arkadiusz Kocaj and Monika Murzyn-Kupisz, 'The Historical Roots, Changing Nature and Geography of Contemporary Textile and Clothing Production in Poland: Beyond Shrinking', in *Changing Geographies of Fashion in the European Semi-Periphery* (Cham: Springer Nature Switzerland, 2025), pp. 107–52 https://doi.org/10.1007/978-3-031-89254-7_2

³⁶ Anders Boman and others, 'Ethical Trade-Offs in Fast Fashion: Exploring Social, Environmental, and Health Dimensions in Clothing Consumption', *Ecological Economics*, 242 (2026), 108878 <https://doi.org/10.1016/j.ecolecon.2025.108878>

³⁷ Emilia Esa Wardana and Hardian Iskandar.

³⁸ Rega Ardian, Vicky F Sanjaya, and Yeni Susanti, 'Impact of Thrifting Presence on Local Brands in Bandar Lampung According to Islamic Business Perspective', *Neo Journal of Economy and Social Humanities*, 5.1 (2026), 143–58 <https://doi.org/10.56403/nejesh.v5i1.392>

³⁹ Andi Firyani Syabina and others, 'Administrative Law Dilemma from Taxing the Economic Presence in Cloud Computing Post-Constitutional Court Decision in Indonesia', *Administrative and Environmental Law Review*, 7.1 (2026), 1–20 <https://doi.org/10.25041/aclr.v7i1.4586>

⁴⁰ Ardian, Sanjaya, and Susanti.



integral component of creative economy development, as well as an embodiment of environmental sustainability practices. The trade in used apparel is deemed to offer a positive contribution by mitigating the escalating volume of textile waste, whilst simultaneously generating novel economic opportunities for the younger demographic and micro, small, and medium enterprises (MSMEs).⁴¹ From this perspective, thrifting is not construed merely as a commercial enterprise, but rather as a facet of the circular economy that endorses the repurposing of viable commodities.⁴² From the vantage point of fiscal regulation, the Indonesian government previously enacted mechanisms for the taxation of used clothing imports. This was manifested in the Minister of Finance Regulation (PMK) Number 132 of 2015, which governed the classification system for import duty tariffs on imported goods, encompassing used apparel. Under said regulation, the importation of used clothing was subjected to a tariff rate of 35 percent. Fundamentally, this policy was oriented toward safeguarding the domestic textile industry, restricting the influx of foreign used goods, and regulating the import flow of non-essential consumer commodities. Nevertheless, this policy was subsequently revoked via PMK Number 6 of 2017, which was further updated by PMK Number 26 of 2022, with partial adjustments to its provisions effectuated through PMK Number 10 of 2024.⁴³

Nevertheless, the implementation of taxation policies on thrifting practices would encounter various structural impediments. *First*, there is an issue concerning the legality of the commodities. A substantial proportion of thrifting activities relies on the supply of imported used clothing, whereas the government consistently rejects the legalization of such imported used goods and asserts that the circulation of illicit goods will be met with strict enforcement. This condition directly constrains the potential tax base that can be levied from these commercial activities.⁴⁴ *Second*, there are constraints regarding compliance and transaction recording. The thrifting market in Indonesia predominantly operates within the informal sector, with transactions conducted via social media platforms, barter systems, or direct cash sales without adequate transactional documentation. This situation complicates the efforts of tax authorities to effectively collect Value Added Tax (VAT) and Income Tax (PPh).⁴⁵ *Third*, there is an issue pertaining to the status of the business operators. Within the Indonesian taxation system, only business operators who have been confirmed as

⁴¹ D. Made Darmawati, Nur Busyra, and Muhamad Alimudin, 'Utilization of Used Clothes for Resale Through the Thrift Model in Boosting the Creative Economy', *TAAWUN*, 6.1 (2026), 103–17 <https://doi.org/https://doi.org/10.37850/taawun.v6i01.1190>

⁴² Clare D'Souza and others, 'Hand Me Downs and Sustainable Choices: A Circular Economy Necessity', *Journal of Fashion Marketing and Management: An International Journal*, 30.3 (2026), 549–69 <https://doi.org/10.1108/JFMM-05-2025-0242>

⁴³ Dzikri Anik Amrullah, Suwari Akhmadhian, and Erga Yuhandra, 'Import Ban Efficacy on Second-Hand Clothing in the Perspective of Regulatory and Sustainable Development Goals', *Unifikasi: Jurnal Ilmu Hukum*, 11.01 (2024), 46–60 <https://doi.org/10.25134/unifikasi.v11i01.766>

⁴⁴ Alifya Endah Linggahwati, 'The Consequences Received By Traders Of Imported Used Clothing (Thrift) With The Existence Of The Regulation Of The Minister Of Trade On The Prohibition Of Imported Used Clothing In The Central Banjarmasin Sub-District', *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, 2.2 (2024), 1189–1203 <https://doi.org/10.62976/ijijel.v2i2.629>

⁴⁵ Rika Desiyanti, 'Financial Technology and Business Performance Among Small Medium Enterprises (SMEs) in Indonesia', in *Transforming Business Through Digital Sustainability Models* (IGI Global, 2025), pp. 143–70 <https://doi.org/10.4018/979-8-3373-0608-7.ch008>



Taxable Entrepreneurs (PKP) and issue tax invoices are authorized to collect and remit VAT in accordance with prevailing regulations. The Directorate General of Taxes (DGT) itself asserts that the delivery of used goods can, in principle, remain subject to VAT, provided it fulfills the elements of a delivery of Taxable Goods (BKP) within the course of business activities.⁴⁶

Nevertheless, the government asserts that the primary issue within thrifting practices does not merely pertain to taxation aspects but rather concerns the legality of used clothing imported into Indonesian territory without official authorization. The Indonesian government, through Minister of Finance Purbaya Yudhi Sadewa, emphasizes that the importation of used clothing, which constitutes the primary source of thrifting commodities is an illicit activity and will be subject to strict enforcement, despite proposals from numerous commercial actors advocating for the legalization of the practice based on its potential contribution to state tax revenues. This statement indicates that potential fiscal revenues cannot inherently serve as a basis to legitimize all thrifting practices, particularly those contingent upon the illicit importation of used goods.⁴⁷ Consequently, the discourse surrounding thrifting in Indonesia fundamentally reflects a policy conflict between efforts to optimize state revenue through taxation mechanisms and trade policies aimed at safeguarding domestic industries and controlling the influx of imported used goods. It is this exact conflict that subsequently poses challenges in formulating policies capable of balancing fiscal interests, national industry protection, and legal certainty for commercial actors.⁴⁸

Analysis of Tax Conflicts Policy in Thrifting between Trade Law and Tax Law

The phenomenon of thrifting, or the trade in second-hand clothing, has experienced significant growth in Indonesia in recent years, particularly with the expansion of digital commerce platforms and social media, which have facilitated the distribution of such goods to consumers.⁴⁹ At its core, thrifting constitutes a form of commercial activity involving the trade of second-hand goods that possess economic value, as it offers products at relatively lower prices compared with new items, and frequently includes goods originating from well-known brands.⁵⁰

From the perspective of the circular economy, the practice of thrifting is often regarded as a form of sustainable consumption, as it extends the lifecycle of textile

⁴⁶ Alan Afriyanto and Siti Noor Aini Hidayah, 'Evaluation of The Threshold for Taxable Enterprises in Indonesia: Impact and Proposal Using Institutional Theory', *Jati: Jurnal Akuntansi Terapan Indonesia*, 2025, 125–43 <https://doi.org/10.18196/jati.v8i2.24792>

⁴⁷ Elmond Bandaiko and Godwin Arku, 'Negotiating Access to Contested Urban Spaces: Street Traders' Resistance against Exclusionary Practices in Harare, Zimbabwe', *Environment and Planning D: Society and Space*, 43.5 (2025), 809–33 <https://doi.org/10.1177/02637758251322343>

⁴⁸ Muhammad Sood and others, 'Indonesia Foreign Trade Policy in Protecting Domestic Textile Industry Products from the Influx of Illegal Textile Import', *Unram Law Review*, 9.1 (2025), 147–61 <https://doi.org/10.29303/ulrev.v9i1.407>

⁴⁹ Dina Nisa Ulfiana and others, 'Thrift Shopping Dalam Perspektif Hukum Di Indonesia Dan Dampaknya Terhadap Umkm', *Jurnal Hukum Lex Generalis*, 5.10 (2024) <https://doi.org/10.37253/jjr.v24i2.7908>

⁵⁰ Anastasya Salsabila, Alika Putri, and others, 'Analisis Pelanggaran Etika Dan Hukum Bisnis Dalam Perdagangan Pakaian Bekas Impor Ilegal', *PENG: Jurnal Ekonomi Dan Manajemen*, 2.4 (2025), 4278–86 <https://doi.org/10.62710/we90n230>



products and reduces waste generated by the fashion industry, which has long been recognised as one of the major contributors to global environmental pollution.⁵¹ However, over time, a functional shift has occurred in this regard. While the trend was initially promoted as a means of encouraging environmentally friendly behaviour within society, it has increasingly taken on a more destructive character. This is because the large-scale distribution and sale of thrifted clothing, which are closely associated with fast fashion trends, continue to stimulate consumptive behaviour. Moreover, the absence of adequate mechanisms for sorting or managing unsold second-hand clothing means that such items frequently remain unmanaged, thereby creating a substantial risk of becoming additional textile waste in the future.⁵²

From a legal perspective, the practice of thrifting gives rise to complex normative issues, as such activities operate at the intersection of two distinct legal regimes, namely trade law and tax law. Within the Indonesian legal system, the regulation of second-hand clothing trade is closely related to import control policies governed by various statutory regulations. Law Number 7 of 2014 on Trade grants the government the authority to impose restrictions or prohibitions on the importation of certain goods in order to safeguard national interests. The implementation of this policy is subsequently articulated in technical regulations that explicitly prohibit the import of second-hand clothing as a commercial commodity. One of these prohibitions is stipulated in Regulation of the Minister of Trade Number 40 of 2022 on Goods Prohibited from Export and Goods Prohibited from Import, which constitutes an amendment to Regulation of the Minister of Trade Number 18 of 2021 on Goods Prohibited from Export and Goods Prohibited from Import. This regulation classifies goods under HS Code 6309.00.00 (used clothing and other worn articles) as items prohibited from importation. Within this regulatory framework, such goods are treated as commodities whose importation is restricted and are explicitly included in the list of goods prohibited from being imported into Indonesia.⁵³

The Government has designed the prohibition on the importation of second-hand clothing not merely as a measure to restrict trade, but also as an effort to protect consumers and to establish a fair and honest business environment for domestic textile industry actors. This policy is grounded in considerations relating to the protection of the national textile industry, as well as public health and sanitation concerns, given that imported used clothing is considered difficult to control in terms of hygiene and compliance with health standards.⁵⁴ From a public health perspective, imported second hand clothing generally does not undergo adequate sterilisation

⁵¹ Fatimah Ainanur Faizah and Amaylia Noor Alaysia, 'Analisis Hukum Dagang Internasional Dalam Fenomena Impor Pakaian Bekas Ilegal', *Ethics and Law Journal: Business and Notary*, 1.3 (2023), 1–6 <https://doi.org/10.61292/eljbn.v1i3.50>

⁵² Nayli Amirah Firdaus, Ilham Takbir Al Azhiim, and Veda Ardellia, 'Analisis Penerapan Etika Bisnis Dalam Perusahaan: Studi Literatur Faktor Pendukung Dan Tantangan', *Jurnal Ilmiah Sistem Informasi Dan Ilmu Komputer*, 3.2 (2023), 132–42 <https://doi.org/10.55606/juisik.v3i2.495>

⁵³ Isna Khoirinnisa, 'Upaya Meningkatkan Kesadaran Pelaku UMKM Dalam Membayar Pajak Penghasilan Final', *Public Service and Governance Journal*, 4.1 (2023), 77–82 <https://doi.org/10.56444/psgj.v4i1.801>

⁵⁴ Inggil Muliawati and Asri Susanti, 'Bajak: Upaya Meningkatkan Kepatuhan Pembayaran Pajak UMKM Pada Usaha Thrift Shop', *Prosiding Seminar Nasional Ekonomi Dan Perpajakan*, 2.1 (2022), 67–77 <https://conference.um.ac.id/index.php/taxcenter/article/view/3471>



processes, thereby rendering its level of cleanliness and safety uncertain.⁵⁵ Within the legal framework, Law Number 8 of 1999 on Consumer Protection affirms that the objective of consumer protection is to provide legal certainty so that the public is safeguarded from potential risks arising from the use of a product. This provision simultaneously serves as a basis of legitimacy for the state to regulate, and even restrict, the importation of goods that may pose risks to public health, safety, or the environment.⁵⁶ Second hand clothing also has the potential to serve as a carrier medium for various pathogens, including bacteria, viruses, and fungi, which may trigger infections among users.⁵⁷

Furthermore, from an environmental perspective, a significant proportion of modern textile products contain synthetic fibres as well as certain chemical substances. When such garments become waste and accumulate in large quantities, these materials may release toxic gases and microplastics that contaminate the environment, including both water and soil.⁵⁸ This phenomenon is further exacerbated by global practices in which a substantial proportion of second-hand clothing that is no longer used in developed countries is instead exported to developing countries. In these countries, such garments frequently end up as waste, gradually decomposing and releasing chemical substances as well as microplastics into the environment. Accordingly, the policy prohibiting the importation of second-hand clothing is not solely related to trade control, but is also intended as a measure to protect public health while simultaneously preventing the accumulation of hazardous textile waste. From an economic perspective, the policy is likewise directed towards safeguarding the domestic textile and textile products (TPT) industry, which has long faced considerable pressure due to the influx of second-hand clothing sold at significantly lower prices. The substantial increase in the illegal importation of used clothing has consequently contributed to a drastic decline in the market share of locally produced textile products.⁵⁹

A policy conflict arises when the trade in second-hand clothing, particularly that originating from imports, is normatively prohibited under trade regulations, yet at the same time such activities potentially constitute objects of taxation within the legal framework of the tax system.⁶⁰ This condition gives rise to a regulatory dilemma, as the state on the one hand seeks to protect domestic industry through trade

⁵⁵ Muhammad Farhan Alauddin, Aula Nur Ariza, and Norma Fitria, 'Eksekusi Pemberantasan Produk Pakaian Bekas Impor Dalam Upaya Penegakan Hukum Di Indonesia', *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4.1 (2026), 845–52 <https://doi.org/10.61104/alz.v4i1.3167>

⁵⁶ Setianwati S and Asri, 'Analisis Hukum Terhadap Praktik Perdagangan Pakaian Bekas Impor (Thrifting) Pada Platform Tokopedia Di Indonesia (Studi Kasus Pemanfaatan Artificial Intelligence (AI) Sebagai Alat Deteksi Transaksi Ilegal)', *Almufi Jurnal Sosial Dan Humaniora*, 2.2 (2025), 39–51 <https://doi.org/10.63821/ash.v2i2.448>

⁵⁷ Army.

⁵⁸ Anastasya Salsabila, Alika Putri¹, and others, 'Analisis Pelanggaran Etika Dan Hukum Bisnis Dalam Perdagangan Pakaian Bekas Impor Ilegal', *PENG: Jurnal Ekonomi Dan Manajemen*, 2.4 (2025), 4278–86 <https://doi.org/10.62710/we90n230>

⁵⁹ Nayli Amirah Firdaus, Ilham Takbir Al Azhiim, and Veda Ardellia.

⁶⁰ Sofa Fatihatun Nayiroh, Nabilla Lutfia, and Syamsul Hidayat, 'Analisis Tantangan Dan Potensi Terhadap Produk Pakaian Bekas Impor/ Thrift', *Mutiara: Jurnal Penelitian Dan Karya Ilmiah*, 2.2 (2024), 123–35 <https://doi.org/10.59059/mutiara.v2i2.1073>



restrictions, while on the other hand the taxation system, in principle, aims to collect state revenue from every economic activity that generates profit.⁶¹

In addition to Law Number 7 of 2014 on Trade and Regulation of the Minister of Trade Number 40 of 2022 on Goods Prohibited from Export and Goods Prohibited from Import, the law enforcement aspects relating to the importation of second-hand clothing are also connected to the provisions contained in Law Number 17 of 2006 on Customs.⁶² Law Number 17 of 2006 on Customs stipulates that any person who smuggles goods into the Indonesian customs territory without complying with the applicable statutory regulations may be subject to criminal sanctions in the form of imprisonment and fines. This provision indicates that the state regards the trade in imported second-hand clothing not merely as a violation of trade policy, but also as conduct that may be categorised as a criminal offence within the customs law regime.⁶³

On the other hand, from the perspective of tax law, any economic activity that generates profit may, in principle, constitute an object of taxation. Law Number 7 of 1983 on Income Tax stipulates that any increase in economic capacity received or obtained by a taxpayer, whether originating from within the country or from abroad, may be subject to income tax.⁶⁴ Similarly, the provisions contained in Law Number 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods impose taxation on every supply of taxable goods or taxable services conducted in the course of business activities. Therefore, if thrifting activities are carried out as commercial transactions that generate profit, such activities may, in theory, constitute taxable objects in the form of income tax as well as value added tax.⁶⁵

A policy conflict subsequently emerges when a number of thrifting business actors propose that the government legalise the importation of second-hand clothing by imposing specific taxes on such activities. These business actors argue that the thrifting business has developed into an economic sector involving a large number of small and medium sized enterprises, and that it possesses the potential to contribute to state revenue through taxation.⁶⁶ From an economic perspective, an approach based on legalisation accompanied by the imposition of taxation is often considered more realistic than a policy of total prohibition, which in practice is frequently difficult to enforce effectively. Nevertheless, the government has rejected this proposal on the

⁶¹ Army.

⁶² Jurnal Ilmu Hukum and others, 'Pengelolaan Perdagangan Pakaian Bekas: Studi Antara Indonesia Dan Thailand Untuk Menghentikan Penyelundupan Pakaian Bekas', *Legal Standing: Jurnal Ilmu Hukum*, 10.1 (2026), 46–60 <https://doi.org/10.24269/ls.v10i1.12987>

⁶³ Selviana Samudera and others, 'Strategi Kementerian Perdagangan Dalam Menangani "Thrifting" Di Pasar Senen', *Jurnal Pemerintahan Dan Kebijakan (JPK)*, 5.3 (2024), 142–54 <https://doi.org/10.18196/jpk.v5i3.21271>

⁶⁴ M Susilo Agung Saputro and others, 'Dampak Penjualan Barang Thrifting Di Indonesia', *Perkara: Jurnal Ilmu Hukum Dan Politik*, 2.1 (2024), 278–85 <https://doi.org/10.51903/perkara.v2i1.1675>

⁶⁵ Jumadi Jumadi, Sunardi Purwanda, and Anisah Daeng Tarring, 'Menegakkan Keadilan: Strategi Hukum Dalam Menindak Penyelundupan Pakaian Bekas Impor', *Jurnal Litigasi Amsir*, 11.2 (2024), 151–57 <https://journalstih.amsir.ac.id/index.php/julia/article/view/277>

⁶⁶ Tati Lestari and Winny Lian Seventeen, 'Analisis Kepatuhan Wajib Pajak Orang Pribadi Pengusaha ThriftShop', *Multidisciplinary Journal of Education , Economic and Culture* , 3.1 (2025), 36–45 <https://doi.org/10.61231/mjeec.v3i1.341>



grounds that the payment of taxes cannot serve as a basis for legitimising an activity that has been normatively prohibited under trade law.⁶⁷

Legal theory analyses this conflict through the principle of legality as a foundational doctrine of modern legal systems. This principle requires that every legal act must rest upon a valid and lawful basis. It further establishes that statutory prohibitions create binding limits that cannot be overridden or legitimised by alternative legal mechanisms. Consequently, when statutory regulations expressly prohibit a particular activity, no subsequent legal arrangement, including the payment of taxes, can confer legality upon that activity or cure its inherent unlawfulness.⁶⁸ Legal doctrine also recognises the *principle ex turpi causa non oritur actio*, which affirms that no legal right may arise from an unlawful act. This principle establishes that the law must not confer protection or legitimacy upon conduct that violates statutory provisions. Accordingly, when trade law expressly prohibits the importation of second-hand clothing, the state cannot validly characterise such conduct as a lawful object of taxation or derive legal benefit from its illegality.⁶⁹

According to reports from the Directorate General of Taxes, the trade in imported second-hand clothing frequently results in losses for the state, as it not only violates trade regulations but also leads to the loss of potential tax revenue that could otherwise be generated from such economic activities. The case of Batam illustrates how illegal thrifting activities can develop due to geographical factors and the presence of cross-border trade networks. In this context, the government has sought to address the conflict between trade law and tax law by strengthening customs supervision and undertaking enforcement measures against the smuggling of goods.⁷⁰ Many traders engaged in second hand goods have expressed their willingness to comply with tax obligations in the expectation that such compliance would confer legal status upon their business activities. However, the Ministry of Finance of the Republic of Indonesia has firmly rejected this proposition of taxation in exchange for legality. Purbaya Yudhi Sadewa emphasises that the unlawful character of imported second hand clothing renders any tax payment legally irrelevant to its status. This position preserves the integrity of the legal system and prevents the state from deriving indirect benefit from activities that constitute illegal smuggling.⁷¹

The policy conflict may be observed more concretely through several case studies that have occurred in Indonesia. One such case took place in Bandung in 2025, when the government conducted an inspection and enforcement operation targeting warehouses used for storing illegally imported second-hand clothing. During the operation, authorities discovered approximately 19,391 bales of used clothing across eleven warehouses located in Bandung, Bandung Regency, and Cimahi, with the total

⁶⁷ Permata Ayu Widyasari and Arif Satria, 'Studi Kualitatif Mengenai Pengetahuan Perpajakan Dan Kepatuhan Wajib Pajak Pengusaha Jastip Online', *Jurnal Riset Akuntansi & Perpajakan (JRAP)*, 9.01 (2022), 136–45 <https://doi.org/10.35838/jrap.2022.009.01.11>

⁶⁸ Prasetyo, Prasetyo, and Ramdhani, 'Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective'.

⁶⁹ Farhan Alauddin, Nur Ariza, and Fitria.

⁷⁰ Kewenangan Bea and others, 'Kewenangan Bea Dan Cukai Dalam Penegakan Hukum Penyelundupan Ekspor Di Indonesia', *JURNAL USM LAW REVIEW*, 8.3 (2025), 2901–20 <https://doi.org/10.26623/julr.v8i3.12884>

⁷¹ Emilia Esa Wardana and Hardian Iskandar.



estimated value of the goods reaching around IDR 112.3 billion. The seized items were subsequently confiscated by the government and destroyed in stages as part of law enforcement measures against violations of the policy prohibiting the importation of second-hand clothing.⁷²

A similar case also occurred when the government carried out the destruction of 500 bales of imported second-hand clothing, which formed part of the confiscated goods. These items originated from monitoring and enforcement operations conducted at several warehouses used for storing illegally imported second-hand clothing and were subsequently destroyed in Bogor Regency.⁷³ The destruction of these goods constitutes a law enforcement measure designed to prevent illegally imported items from re-entering circulation within the domestic market. The government also imposes administrative sanctions by closing the business premises of importers or distributors involved in such activities. Furthermore, in 2024, law enforcement authorities conducted similar enforcement actions by confiscating approximately 3,332 bales of imported second hand clothing from several locations, including Bandung, Tanjung Priok Port, and Cikarang. Authorities seized these goods on the basis of strong indications that they had entered Indonesia through smuggling routes.⁷⁴

These cases demonstrate that the government prioritises trade policy considerations over the potential tax revenue that might be derived from such activities. In theoretical terms, if second-hand clothing were circulated within the market and generated profit for traders, such activities could constitute taxable objects in the form of income tax as well as value added tax. However, because the importation of second-hand clothing is an activity prohibited under trade law, such goods cannot be treated as lawful objects of commerce. Consequently, the state cannot legitimately impose taxation on the economic activities arising from such prohibited transactions.⁷⁵

Another case has also occurred in Batam, which for many years has been recognised as one of the principal entry points for imported second-hand clothing into Indonesia due to its geographical proximity to Singapore and Malaysia.⁷⁶ Customs authorities and the police routinely conduct enforcement operations against vessels transporting second-hand clothing illegally through maritime routes. In

⁷² 'Mendag: Pemusnahan 19 Ribu Ballpres Thrifting Ilegal Sudah Selesai - ANTARA News' <https://www.antaranews.com/berita/5270277/mendag-pemusnahan-19-ribu-ballpres-thrifting-ilegal-sudah-selesai>

⁷³ 'Kemendag Lakukan Pemusnahan 500 Balpres Pakaian Bekas Impor - ANTARA News Jambi' <https://jambi.antaranews.com/berita/638401/kemendag-lakukan-pemusnahan-500-balpres-pakaian-bekas-impor>

⁷⁴ 'Meski Ilegal, Mengapa Bisnis Thrifting Terus Menjamur? - Universitas Bangka Belitung 2026' https://www.ubb.ac.id/index.php?page=artikel_ubb&&id=692&judul=Meski Ilegal, Mengapa Bisnis Thrifting Terus Menjamur

⁷⁵ Daniela Marito Br Tambunan, Dini Manurung, and Sri Handayani, 'Analisis Ekonomi-Hukum Terhadap Larangan Impor Barang Bekas (Thrifting) Dan Dampaknya Terhadap UMKM', *Equivalent: Journal of Economic, Accounting and Management*, 3.2 (2025), 573–79 <https://doi.org/10.61994/equivalent.v3i2.967>

⁷⁶ Diyan Isnaeni, 'Peran Notaris Dalam Pendirian Pt Usaha Mikro Dan Kecil', *Jurnal Hukum Dan Kenotariatan*, 5.2 (2021), 202 <https://doi.org/10.33474/hukeno.v5i2.11003>



numerous operations, thousands of bales of used clothing have been successfully seized after entering Indonesian territory through smuggling channels.

According to reports from the Directorate General of Taxes, the trade in imported second hand clothing frequently causes state losses, as it not only contravenes trade regulations but also eliminates potential tax revenue that could otherwise be generated from lawful economic activities. The case of Batam demonstrates how illegal thrifting activities develop due to strategic geographical conditions and the presence of cross border trading networks involving neighbouring countries such as Singapore and Malaysia. In response, the government seeks to address the conflict between trade law and tax law by strengthening customs supervision and intensifying enforcement measures against the smuggling of goods.⁷⁷

Based on these various cases, it can be observed that the government has consistently adopted a law enforcement approach through the seizure of goods, the closure of warehouses, and the destruction of confiscated items to address the illegal trade in imported second-hand clothing.⁷⁸ This approach demonstrates that, in the conflict between trade law and tax law, the government places trade law as the more dominant normative framework in determining the legality of an economic activity.⁷⁹ Furthermore, from the examination of several of these cases, it can be understood that the loss of state revenue resulting from illegal thrifting activities is highly significant. Because these goods enter through unofficial channels, they are not subject to import duties or Value Added Tax (VAT). The Directorate General of Taxes notes that although many Micro, Small, and Medium Enterprises (MSMEs) already possess a NPWP, they frequently fail to report their tax obligations correctly. Taxation is still commonly perceived as a burden that reduces their already limited profit margins rather than as a civic obligation of citizens.⁸⁰

The law enforcement measures undertaken by the government in this context tend to be reactive rather than preventive. In other words, authorities often act only after viral media coverage or public pressure emerges, rather than conducting continuous monitoring and routine operations targeting the trade in imported second-hand goods.⁸¹ This situation is further exacerbated by the low level of tax literacy within the informal sector, where business actors frequently lack the necessary resources to understand and comply with complex tax administrative procedures. The fiscal

⁷⁷ Rinandita Wikansari and others, 'Upaya Pemerintah Dalam Mengurangi Aktivitas Impor Pakaian Bekas Ilegal Di Indonesia', *Jurnal Bingkai Ekonomi (JBE)*, 8.1 (2023), 35–42 <https://doi.org/10.54066/jbe.v8i1.251>

⁷⁸ Almufi Jurnal Sosial dan Humaniora and Saran Penulisan Referensi, 'Analisis Hukum Terhadap Praktik Perdagangan Pakaian Bekas Impor (Thrifting) Pada Platform Tokopedia Di Indonesia (Studi Kasus Pemanfaatan Artificial Intelligence (AI) Sebagai Alat Deteksi Transaksi Ilegal)', *Almufi Jurnal Sosial Dan Humaniora*, 2.2 (2025), 39–51 <https://doi.org/10.63821/ash.v2i2.448>

⁷⁹ Maharani Aisyah Fajarani, Rini Hayati Purba, and Tri Kurnia Wulandari, 'Analisis Literatur: Peranan Sistem Pengawasan Bea Cukai Dalam Mencegah Penggelapan Pajak Impor', *Jurnal Riset Akuntansi*, 2.4 (2025), 168–78 <https://doi.org/10.64620/JURRA.V2i4.69>

⁸⁰ Nadila Safitri and Handar Subhandi Bakhtiar, 'Penghapusan Thrifting Impor Shop Sebagai Upaya Penegakan Peraturan Menteri Perdagangan Nomor 40 Tahun 2022', *TANJUNGPURA LAW JOURNAL*, 8.1 (2024), 42–58 <https://doi.org/10.26418/tlj.v8i1.65000>

⁸¹ Yoliandri Nur Sharky, 'Impact of Import Thrifting in Indonesia: A Case Study on Used Fashion Products', *QISTINA: Jurnal Multidisiplin Indonesia*, 2.1 (2023), 437–41 <https://doi.org/10.57235/qistina.v2i1.516>



revenue shortfall highlighted by Purbaya Yudhi Sadewa for 2025 has also increased pressure on the government to optimise tax collection across all economic sectors.

Nevertheless, the paradox of “illegal goods” remains a fundamental constraint. If the government were to permit thrifting activities to be subject to taxation, such a policy could potentially weaken the tax ratio in the long term, as it might undermine the formal textile sector, which has traditionally served as a more stable source of corporate tax revenue.⁸² Therefore, the government’s strategy is to “cleanse Indonesia of illegal goods” while simultaneously redirecting consumer expenditure towards domestically produced products that contribute to the formal tax base. The phenomenon of normative conflict may be further analysed through the Pure Theory of Law proposed by Hans Kelsen. According to Kelsen, the legal system constitutes a hierarchy of norms arranged in a structured order, in which lower norms must derive their validity from higher norms and must not contradict them. Where a conflict arises between two legal norms, the norm occupying the higher position within the hierarchy of law must take precedence.⁸³

In the context of thrifting in Indonesia, the conflict arises between the norm prohibiting the importation of second-hand clothing and the taxation norms that allow the imposition of taxes on commercial activities. The norm prohibiting imports constitutes a rule that directly determines the legality of a particular economic activity, whereas taxation norms merely regulate the fiscal consequences arising from economic activities that are considered lawful.⁸⁴ Therefore, within the hierarchy governing the application of legal norms, the norm that determines the legality of trading activities must take precedence before taxation norms can be applied. The analysis advanced by Hans Kelsen further demonstrates that legal norms cannot operate in isolation from the coherence of the overall legal system. If the state continues to impose taxes on activities that are expressly prohibited, such practice risks creating normative inconsistency, as it would imply state recognition of the legality of conduct that the law unequivocally prohibits.⁸⁵ Therefore, in resolving conflicts between legal norms, the state must ensure that fiscal policy does not contradict the regulatory policies that have been established within the field of trade.

Based on the overall analysis, it can be concluded that the conflict of tax policy in the practice of thrifting in Indonesia arises as a consequence of the differing orientations between trade law and tax law. Trade law functions as a regulatory instrument aimed at protecting national industries and controlling the flow of imported goods, whereas tax law serves as a fiscal instrument designed to generate state revenue from the economic activities of society.⁸⁶ As long as the importation of second hand clothing remains categorised as a prohibited activity under trade law,

⁸² Prasetyo, Prasetyo, and Ramdhani, ‘Analyzing Thrifting Legality and Tax Compliance Through a Social Science Education Perspective’.

⁸³ Soesilo and others.

⁸⁴ Dewi Pudji Rahayu and others, ‘Understanding Tax Compliance in Indonesian SMES: A Structural Equation Modeling Approach to Tax Literacy, Knowledge, Fairness, Power, and Trust’, *Salud, Ciencia y Tecnologia - Serie de Conferencias*, 4 (2025) <https://doi.org/10.56294/sctconf20251364>

⁸⁵ Hermawan, Prastyanti, and Santoso.

⁸⁶ Purwaningtyas Dwi and others, ‘Tax Payer Legal Compliance In Scoping Review’, *Indonesian Journal of Law and Justice*, 3.2 (2025), 10 <https://doi.org/10.47134/ijlj.v3i2.5057>



the state cannot legitimately treat such conduct as an object of taxation, since doing so would contradict the principle of legality within the legal system.⁸⁷

Therefore, resolving this policy conflict requires a comprehensive effort to harmonize regulatory frameworks across trade policy, taxation policy, and national industrial policy.⁸⁸ Such harmonization is essential to establish legal certainty for business actors while ensuring that state economic policies operate coherently within the framework of the national legal system.⁸⁹ In this context, the policy model that may be developed is an integrated regulatory harmonization model that seeks to align trade policy, taxation policy, and customs policy in order to prevent normative inconsistencies within the national legal system. Within this framework, policy reconstruction may be undertaken through the clarification and reinforcement of normative provisions in trade regulations that explicitly determine the legal status of thrifting activities.⁹⁰ Such reconstruction may be carried out by introducing new provisions within trade regulatory instruments. Such reconstruction of legal norms may be realised through the formulation of Proposed Article 47A within the implementing regulation of the Trade Law, which explicitly prohibits the circulation of imported second-hand clothing classified under HS 6309.00.00 within the territory of the Republic of Indonesia, except for limited purposes such as research or textile waste processing. This regulatory provision should be reinforced through enhanced distribution supervision by the Ministry of Trade and regional governments, including through business licensing mechanisms, warehouse inspections, and the monitoring of digital commerce. The primary objective of this policy is to establish legal certainty regarding the illegal status of imported second-hand clothing trade and to prevent the circulation of illegal goods within the domestic market.

From the perspective of tax law, the practice of thrifting gives rise to a normative dilemma because such activities may generate economic profits and, in theory, may constitute a taxable object. However, the goods being traded originate from activities that are legally prohibited under the trade regulatory regime. If the state continues to impose taxes on such activities, it may create the perception that the state indirectly legitimises illegal economic practices. Therefore, a reconstruction of legal norms is required through the formulation of Proposed Article 3A in the implementing regulations of taxation law, which provides that income or transactions derived from business activities explicitly prohibited by statutory regulations shall not constitute the basis for tax imposition, except within the context of law enforcement or the recovery of state losses. This policy should be strengthened through the preparation of legal interpretation guidelines by the Directorate General of Taxes in order to prevent taxation practices that may inadvertently legitimise illegal economic activities.

⁸⁷ Ahmad Bachtiar Firdaus and Luthfiya Fathi Pusposari, 'The Influence of Economic Literacy and Lifestyle on the Consumptive Behavior of Students', *J-PIPS (Jurnal Pendidikan Ilmu Pengetahuan Sosial)*, 8.2 (2022), 172–82 <https://doi.org/10.18860/jpips.v8i2.15260>

⁸⁸ Pendekatan Hukum, Pidana Dalam Menangani, and Penyeludupan Barang, 'Approaches in Criminal Law to Handle The Smuggling of Illegal Goods in Indonesia: A Thorough Analysis and Comparative Study with Policies and Law Enforcement Practices in Asean Member Countries', *Decisio: Law Journal*, 1.1 (2024), 16–22 <https://doi.org/10.52249/decisio.v1i1.3>

⁸⁹ Emilia Esa Wardana and Hardian Iskandar.

⁹⁰ Dwi and others.



In this manner, the principle of legality within the taxation system can be maintained, and the state will not derive revenue from activities that contravene the law.⁹¹

Within the framework of customs law, the principal issue lies in the fact that law enforcement efforts have primarily focused on suppressing smuggling activities at border areas or ports. Meanwhile, the distribution networks of illegally imported goods that have already entered domestic territory often fall beyond the reach of customs supervision mechanisms. As a result, the trade in imported second-hand clothing continues to operate through local distribution networks.⁹² To address this issue, regulatory strengthening is required through the introduction of Proposed Article 102C, which stipulates that any person who intentionally stores, distributes, or trades imported goods that are prohibited under statutory regulations may be subject to administrative sanctions in the form of business licence revocation, as well as criminal sanctions in accordance with applicable laws and regulations. This policy must be accompanied by enhanced coordination between Customs and Excise, the Police, and regional governments in supervising warehouses, ports, and the distribution channels of illegally imported goods. The primary objective of this regulation is to broaden the scope of law enforcement so that it does not only target smugglers at border points but also addresses domestic distribution networks that form part of the illegal trade chain.

Another issue affecting the effectiveness of controlling the trade in imported second-hand clothing is the weakness of cross-sectoral supervision. Insufficient coordination among state institutions, including the Ministry of Trade, the Directorate General of Customs and Excise, and the Directorate General of Taxes, has resulted in ineffective oversight of illegal trading activities. To address this issue, it is necessary to establish an integrated supervision system for textile trade, which integrates trade data, customs data, and taxation data within a coordinated monitoring framework. This system may be complemented by digital trade monitoring, transaction data integration, and routine patrols in border areas that are vulnerable to smuggling activities. Through the establishment of such an integrated supervisory mechanism, the circulation of illegal goods can be prevented from the earliest stages, thereby significantly enhancing the effectiveness of law enforcement.

Beyond the dimension of law enforcement, policies aimed at controlling the importation of second-hand clothing must also consider the broader objective of sustainable economic development, particularly within the context of the circular economy. In practice, policies prohibiting the importation of second-hand clothing are often perceived as hindering the development of circular economic practices that involve the reuse of textile products.⁹³ Consequently, a policy approach is required that clearly distinguishes between lawful domestic thrifting and thrifting activities based on illegal imports. Within this framework, domestic thrifting activities may remain permissible, provided that they originate from locally sourced second-hand goods obtained through lawful means and do not violate international trade

⁹¹ Lestari and Seventeen.

⁹² Ni Made Indah Krisna Dewi, Ida Ayu Putu Widiati, and I Nyoman Utama, 'Implikasi Penjualan Pakaian Bekas Impor Bagi Konsumen Di Kota Denpasar', *Jurnal Interpretasi Hukum*, 1.1 (2020), 216–21 <https://doi.org/10.22225/juinhum.1.1.2222.216-221>

⁹³ Jumadi, Purwanda, and Tarring.



regulations. Such policies may be further strengthened through the provision of incentives for micro, small, and medium-sized enterprises (MSMEs) engaged in textile waste processing, recycling, and upcycling of domestic textile products. In this way, trade policy functions not only as an instrument for controlling illegal imports but also as a mechanism for promoting the development of a sustainable textile industry that supports environmental protection.

In addition to the reconstruction of legal norms, the proposed policy model should also be supported by reinforcing regulatory measures in the form of institutional coordination mechanisms among relevant government agencies. The government may establish an integrated supervisory system involving the Ministry of Trade, the Directorate General of Customs and Excise, and the Directorate General of Taxes to facilitate the exchange of data concerning the trade of textiles and second-hand clothing. Such data integration would enable the government to monitor distribution chains and identify illegal trading activities at an early stage. Furthermore, policy strengthening may also be pursued through the enhancement of tax literacy among small and medium-sized enterprises engaged in the domestic trade of second-hand goods, thereby ensuring that lawful economic activities can be optimally integrated into the national taxation system.⁹⁴

Accordingly, a policy model grounded in regulatory harmonization, the reconstruction of legal norms, and the strengthening of cross sectoral supervisory mechanisms can function as an effective solution to minimise conflicts between trade law and tax law in the practice of thrifting. This approach not only enhances legal certainty for business actors but also ensures that state economic policies operate consistently with the principle of legality, while advancing the objectives of protecting national industry, safeguarding public health, and promoting environmental sustainability.

CONCLUSION

This study concludes that the phenomenon of thrifting in Indonesia reveals a substantive policy conflict between trade law and tax law, arising from their divergent regulatory orientations. Trade law operates as an instrument to control the circulation of goods and to protect the national textile industry by prohibiting the importation of second-hand clothing. Conversely, tax law, by its nature, treats any income generating activity as a potential object of taxation. This divergence produces a normative dilemma when thrifting practices continue to expand and generate economic value, while the commodities traded originate from activities that are legally prohibited. Such a condition reflects a lack of regulatory synchronization, which in turn generates legal uncertainty and creates opportunities for business actors to exploit normative gaps by asserting legitimacy through tax compliance. Accordingly, resolving this policy conflict requires a comprehensive approach to regulatory harmonization. This effort should involve the reconstruction of legal norms that firmly establish that economic activities derived from unlawful conduct cannot constitute a valid basis for taxation. In parallel, the state must strengthen customs supervision, enhance control over distribution channels, and improve institutional coordination among relevant authorities. Through an integrated model

⁹⁴ S and Asri.



of regulatory harmonization, the state can ensure legal certainty, maintain the coherence of the legal system, and align trade policy, taxation policy, and industrial protection objectives within a unified framework that supports sustainable economic development.

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