

Juridical analysis of law enforcement on illegal cigarettes in Batam and its impact on state excise revenue

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Abstract

Purpose: Analyze law enforcement against illicit cigarettes with counterfeit excise bands in Batam and its impact on excise revenue, framed by Radbruch's legal certainty, Friedman's legal system, and Becker's economics of crime.

Research methodology: A normative-empirical legal approach: review of excise laws and implementing regulations; a case study of KPU BC Batam operations (sea/land patrols, risk-based intelligence); semi-structured interviews with officers; and qualitative analysis of enforcement documents.

Results: Enforcement produced sizable seizures and a clear typology of illicit excisable goods (without bands/counterfeit), yet constraints persist: limited personnel and assets, a vast surveillance area, and increasingly sophisticated modus operandi. Regulatory gaps channel many cases into administrative settlement (state-asset confiscation) with weak deterrence; inter-agency coordination remains uneven; and permissive social norms toward cheaper prices endure. The main impacts are excise revenue leakage, unfair competition for compliant firms, and erosion of tobacco-control objectives.

Conclusions: Legal certainty is not yet achieved due to sanction disparities and inconsistent enforcement; economically, offenders' expected gains exceed expected penalties. Stronger, predictable, and deterrence-oriented enforcement is required.

Limitations: Evidence is confined to Batam and specific periods; there is no econometric estimate of revenue loss; findings rely on interviews and secondary documents.

Contribution: Integrates legal theory and policy analysis by proposing tighter norms and recalibrated criminal-administrative sanctions, clarified procedures, deeper inter-agency integration, deployment of digital track-and-trace for excise bands, and public education to curb demand, restore the revenue base, and protect fair competition.

Keywords: *Counterfeit Excise Stamps, Customs and Excise, Illegal Cigarettes, Law Enforcement, State Revenue*

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1. Introduction

Cigarettes, as one of the excise goods, contribute significantly to state revenue through taxation, particularly tobacco excise (Tampub, Sukarja, & Azwar, 2024). However, the widespread circulation of illegal cigarettes with counterfeit excise stamps has raised concerns, as it not only harms the state financially but also undermines the principle of legal certainty in Indonesia's tax system. Batam, with

its status as a free trade zone and international port, has become a hotspot for illegal cigarette smuggling that is difficult to regulate. This phenomenon highlights the inefficiency of law enforcement by authorities, particularly Customs and Excise, allowing the continued counterfeiting of excise stamps and resulting in significant losses for the state.

This issue is further complicated by its impact on both revenue leakage and the weakening of the excise policy instruments intended to control tobacco consumption, as well as creating unfair competition in the legal cigarette industry. Enforcement actions carried out by the Batam Type B Primary Customs and Excise Office, such as in the case of KM. Rahtika Jaya and the Indonesian Army truck at Telaga Punggur, demonstrate serious efforts to combat violations. However, challenges such as limited human resources, extensive surveillance areas, and remaining legal loopholes prevent optimal law enforcement (Maulani & Tamza, 2025). This situation highlights the need for a deeper juridical review to assess the effectiveness of existing regulations and seek more comprehensive enforcement strategies to safeguard fiscal interests (Angkasa, Wamafma, Juanda, & Nunna, 2023).

The tobacco industry in Indonesia plays a strategic role in the national economy, particularly as a contributor to state revenue through excise tax. Cigarettes fall under excise goods, whose use is controlled and monitored by the state, as regulated in Law Number 39 of 2007 concerning Excise and its amendment, Law Number 7 of 2021 concerning Tax Regulation Harmonization (TRH). This industry involves a significant workforce, from tobacco farming to production, distribution, and trade, and thus has a broad economic effect. In addition, through excise tariff regulations, the government aims to control cigarette consumption while optimizing state revenue (Suprihanti, Harianto, Sinaga, & Kustiari, 2018). According to data released by the Directorate General of Customs and Excise, the tobacco industry contributes more than 10% of the total state tax revenue annually, making it one of the largest contributors to indirect tax revenue. State revenue from tobacco excise continues to rise each year, reflecting its strategic role in supporting the State Budget (APBN). For example, in 2022, tobacco excise revenue reached IDR 218.6 trillion, an increase from IDR 188.8 trillion in the previous year. This contribution is an essential source of income for the state, particularly for financing health and development programs.

One mechanism applied by the government to optimize excise revenue is through annual adjustments to cigarette excise rates (Bulkiyah, Syahbandir, & Yani, 2022). However, the increase in excise rates also triggers other challenges, such as the rise of illegal cigarettes that avoid official excise burdens, resulting in potential revenue loss for the state (Kasri, Ahsan, Wiyono, Jacinda, & Kusuma, 2021). The phenomenon of illegal cigarette circulation, including the use of counterfeit excise stamps, has become a serious threat to state revenue. Cigarettes with counterfeit excise stamps are sold at lower prices than legal products, attracting consumers seeking to avoid the high prices resulting from excise policies (Nurzeha & Nashrullah, 2024). Moreover, weak surveillance in some border regions, including Batam, has opened opportunities for smuggling illegal cigarettes from abroad. Law enforcement efforts against these violations still face various challenges, particularly in detecting and addressing increasingly sophisticated methods of illegal cigarette circulation.

In addition to harming the state economically, excise stamp counterfeiting is a serious violation of Indonesian law. Law Number 39 of 2007 concerning Excise stipulates that any form of excise stamp counterfeiting is subject to criminal penalties, including fines and imprisonment. However, despite clear regulations, challenges in implementing law enforcement remain a primary issue. Perpetrators often use distribution networks that are difficult to trace and exploit legal loopholes to avoid enforcement. Failure to enforce the law effectively exacerbates illegal cigarette circulation, particularly in areas with low surveillance levels. Therefore, it is necessary to enhance the capacity of law enforcement officers to detect and eradicate these illegal practices.

Customs and Excise in Batam also focuses on preventive strategies through socialization and education for the public and businesses about the negative impacts of circulating cigarettes with counterfeit excise stamps. This initiative aims to raise public awareness to prevent the trade or consumption of illegal

goods that could harm the state. The "Crackdown on Illegal Cigarettes" program, launched by the Directorate General of Customs and Excise, is one of the initiatives implemented in Batam to encourage active public participation in monitoring and reporting illegal cigarette circulation.

Based on the issues and topics outlined above, the following research questions are discussed:

1. How is law enforcement against the circulation of illegal cigarettes with counterfeit excise stamps in Batam implemented, and what obstacles do Customs and Excise officers face?
2. What is the impact of smuggling cigarettes with counterfeit excise stamps on state revenue, and what juridical solutions can be applied to improve law enforcement effectiveness?

2. Literature review

2.1 Definition and History of Excise in Indonesia

Excise is a type of state levy imposed on specific goods with particular characteristics according to legal provisions. In Article 1, paragraph (1) of Law Number 39 of 2007 concerning Excise, it is stated that "Excise is a state levy imposed on specific goods that have the characteristics or qualities defined by this law." Conceptually, an excise is defined as a state levy imposed on goods that have a negative impact on society or the environment. According to Aulana, Salsabila, Hardini, Aji, and Putra (2025), excise is a fiscal instrument aimed at controlling the consumption of harmful goods such as cigarettes and alcohol, while simultaneously increasing state revenue. From this perspective, excise is not only fiscal but also involves regulating public behavior. It is officially stated that excise differs from general taxes because of its selective nature, being imposed only on specific goods as determined by law. Excise goods generally have low demand elasticity; therefore, a tariff increase does not significantly reduce consumption, yet it remains effective in increasing state revenue (Nazar et al., 2021).

2.2 Smuggling in the Perspective of Criminal Law

In the context of criminal law, smuggling is defined as the act of importing or exporting goods illegally without fulfilling customs and excise obligations (Mufti & Limatahu, 2022). Smuggling is a violation of state sovereignty, as regulated under Article 102 of Law Number 17 of 2006 concerning Customs. This definition includes efforts to avoid paying import duties, excise taxes, or prohibitions on certain goods regulated by the state. Excise Law Number 39 of 2007 states that smuggling includes the circulation of Excise Goods (BKC) without excise stamps or supplementary documents. Hermawan (2025) adds that the definition of smuggling also covers document forgery or the use of unofficial channels to deceive authorities, such as importing cigarettes without excise stamps or distributing them outside official distribution channels.

2.3 Counterfeiting Excise Stamps as an Economic Crime

Counterfeiting excise stamps is one form of economic crime aimed at evading excise payments set by the state. According to Article 54 of Law Number 39 of 2007 concerning Excise, any person who makes, imitates, or counterfeits excise stamps can be subjected to criminal sanctions. The common modus operandi used in excise stamp counterfeiting includes the use of counterfeit excise stamps, reusing old excise stamps, and falsifying excise payment documents (Panjaitan, 2022). In general, counterfeiting excise stamps and smuggling illegal cigarettes harm state revenue and create unfair competition for the legal cigarette industry (Ahsan et al., 2024). Therefore, strengthening regulations and supervision is key to preventing the spread of this crime.

The counterfeiting of excise stamps has significant implications for the state's revenue. According to reports from the Directorate General of Customs and Excise, in 2022, the state faced a potential revenue loss of IDR 5.2 trillion due to illegal cigarette smuggling (Sihombing & Ismaidar, 2023). This figure reflects the substantial impact of excise-related crimes on the revenue that should be used to finance public sectors, such as health and education. In addition to affecting state revenue, excise stamp counterfeiting creates unfair competition for the legal cigarette industry. Cigarette producers who comply with excise taxes must compete with illegal products sold at lower prices because they are not taxed. This can lead to a decline in the market share of legal cigarette producers, ultimately affecting employment in the tobacco industry.

2.4 Theoretical Framework Used

This study uses Gustav Radbruch's theory of legal certainty as a grand theory. Legal certainty serves as the fundamental basis for evaluating the applicability of excise regulations and the supervision of illegal cigarettes (Julyano & Sulistyawan, 2019). In the context of cigarette smuggling with counterfeit excise stamps, legal certainty requires clear, consistent, and effectively enforceable regulations. Legal uncertainty or weak law enforcement creates space for perpetrators to continue illegal practices that harm the state. As a middle theory, this study employs Lawrence M. Friedman's legal system theory, which emphasizes three key elements: legal substance, legal structure, and legal culture. Legal substance is reflected in excise-related regulations, legal structure is represented by the role of Customs and Excise in supervision, and legal culture reflects public and business compliance with excise provisions (Suyatno, 2023). The integration of these three elements is crucial for effective law enforcement against illegal cigarette circulation in Batam.

Gary S. Becker's criminal economics theory is used as an applied theory, which views criminal acts, including illegal cigarette smuggling, as rational choices influenced by cost-benefit calculations (Becker, 1968). Perpetrators are likely to engage in crime if the potential benefits outweigh the risks, whether in terms of criminal sanctions or fines. Therefore, the effectiveness of law enforcement depends on how well legal sanctions can create deterrent effects and increase the cost of violations for the perpetrators. The combination of these three theories provides a comprehensive analytical framework for studying the circulation of illegal cigarettes in Batam, Indonesia. The theory of legal certainty helps assess the clarity and consistency of excise regulations; the legal system theory emphasizes the importance of synergy between substance, structure, and culture in enforcement; and the criminal economics theory provides a perspective on the motivations of perpetrators and the effectiveness of sanctions. With this theoretical framework, this study can explain how legal regulation, enforcement implementation, barriers faced, and their impact on state revenue can be analyzed both juridically and empirically.

3. Methodology

This study uses a combination of normative and empirical juridical approaches. The normative juridical approach is used to analyze regulations governing excise, particularly cigarettes as excise goods, and the criminal sanctions for counterfeiting excise stamps. Meanwhile, the empirical juridical approach is used to examine the implementation of law enforcement on the ground through case studies and monitoring practices conducted by the Batam Type B Primary Customs and Excise Office (Respationo, 2024). This research is descriptive-analytical, providing a systematic overview of the legal regulation mechanisms, enforcement practices in the field, and obstacles faced by Customs and Excise officers in handling illegal cigarettes. The analysis was conducted by reviewing existing regulations, comparing them with empirical practices, and assessing the effectiveness of law enforcement in protecting state revenue from the excise sector.

The research data consisted of secondary and primary data. Secondary data were obtained through library research on laws and regulations, legal literature, and official Customs and Excise documents. Primary data were collected through field research, including interviews with Customs and Excise officers in Batam, case study analysis of illegal cigarette enforcement, and observation of monitoring practices. Data collection techniques included documentation, library studies, and in-depth interviews. Data analysis was conducted qualitatively by interpreting normative and empirical data to produce comprehensive conclusions. Normative data were analyzed using legal interpretation methods, while empirical data were analyzed through data reduction, presentation, and conclusion drawing. This combination of analyses is expected to provide a complete picture of the effectiveness of law enforcement against illegal cigarette circulation in Batam and its impact on state excise revenue.

4. Results and discussions

4.1 *Implementation of Law Enforcement Against the Circulation of Illegal Cigarettes with Counterfeit Excise Stamps in Batam and the Obstacles Faced by Customs and Excise Officials*

The implementation of law enforcement against the circulation of illegal cigarettes in Batam is a major focus of the Directorate General of Customs and Excise, particularly the Batam Type B Primary Customs and Excise Office (KPU BC) (KPU BC). This enforcement is carried out due to the rampant circulation of cigarettes without excise stamps or with counterfeit excise stamps, resulting in significant losses to the state's revenue. Law enforcement begins with field surveillance activities, sea patrols, and land operations specifically aimed at monitoring the circulation of tobacco excise goods in the country. KPU BC Batam carries out its duties through direct enforcement mechanisms based on intelligence information and routine monitoring. The illegal cigarettes seized are generally either not affixed with valid excise stamps, use counterfeit stamps, or use stamps that do not comply with regulations. In the uncovered cases, Customs and Excise officials classify the tobacco products as illegal Excise Goods (BKC) that can be confiscated and turned into State Property (BMN).

The law enforcement strategy employed includes the use of risk data (risk management) and collaboration with other agencies to ensure food safety. In many cases, Customs and Excise intelligence has successfully detected the circulation of illegal cigarettes through distribution patterns and marketing networks. This allows KPU BC Batam to conduct independent operations, resulting in the seizure of thousands to millions of illegal cigarette sticks annually. This proves that law enforcement is not only reactive but also preventive (Fadlan & Apridony, 2024). However, in practice, there are limitations in terms of human resources and surveillance facilities for these patients. The vast surveillance area of Batam, which includes both sea and land routes, often overwhelms officials, rendering comprehensive control challenging. This situation creates gaps for perpetrators to continue smuggling practices by exploiting alternative distribution channels that are difficult to reach. Another challenge is the increasingly sophisticated modus operandi of perpetrators. They use various methods, from concealing illegal cigarettes in official vehicles and cargo ships to exploiting Batam's status as a free-trade zone. Under such conditions, Customs and Excise officers are required to improve their accuracy in conducting inspections to avoid missing illicit activities.

In addition to technical factors, obstacles arise from legal loopholes that perpetrators can exploit. For example, some cases of seized illegal cigarettes are not followed up with an investigation but are resolved through administrative measures by designating the confiscated goods as State Property (BMN). While this is legally valid, it is often seen as ineffective in deterring perpetrators because it is not followed by criminal sanctions (Parameshwara, 2023). KPU BC Batam also faces coordination challenges among agencies. Handling illegal cigarettes requires synergy with other law enforcement agencies, such as the police, military (TNI), and local governments. However, differences in authority, task priorities, and limited communication between agencies often hinder effective enforcement. Excise crimes are cross-sectoral and require an integrated approach. Another obstacle is low public legal awareness. Many consumers and small traders in Batam still view illegal cigarettes as regular goods because of their cheap price and easy availability. This lack of awareness keeps the demand for illegal cigarettes high, encouraging perpetrators to continue producing and smuggling cigarettes without valid excise stamps.

Considering these obstacles, it can be seen that law enforcement against the circulation of illegal cigarettes in Batam is still not optimal. Although KPU BC Batam has made various efforts, from surveillance to enforcement, smuggling practices continue to be rampant in the region. This indicates the need for regulatory improvements, enhanced inter-agency coordination, and stronger preventive efforts through socialization and legal education to make law enforcement more effective and have a tangible impact on protecting the state's revenue. Law enforcement against the circulation of illegal cigarettes with counterfeit excise stamps in Batam still faces legal uncertainty, particularly regarding regulatory loopholes that perpetrators can exploit. According to Gustav Radbruch, legal certainty is one of the fundamental values in law that must be realized so that norms are not only written but are also enforced consistently. In practice, although Law Number 39 of 2007 concerning Excise has regulated

criminal and administrative sanctions, weak implementation and disparities in law enforcement create the perception that smuggling cigarettes is not a serious crime, thus reducing the law's deterrent effect.

Using Lawrence M. Friedman's perspective, the legal system includes substance, structure, and legal culture. In terms of substance, the rules regarding excise stamps are quite complete, but they are not effective in practice because of discrepancies between technical regulations. In terms of structure, the Customs and Excise institutions in Batam face human resource limitations and surveillance infrastructure in vast border areas. In terms of legal culture, many businesses and individuals remain permissive toward the circulation of illegal cigarettes due to their perceived lower prices, which hinders law enforcement efforts. According to Becker, crime is the result of rational considerations of profit and loss. The phenomenon of illegal cigarette smuggling in Batam aligns with this theory, where perpetrators perceive economic gain as far outweighing the risk of being caught and penalized. The challenges faced by Customs and Excise officials in terms of limited surveillance, technology, and inter-agency coordination reinforce the assumption of perpetrators that the probability of being caught is relatively low, encouraging them to continue their illegal activities.

Using these three theories, it can be concluded that law enforcement in Batam still faces significant challenges. From a legal certainty perspective, regulations have not fully provided a deterrent effect on illegal gambling. From a legal system perspective, there are weaknesses in coordination and institutional capacity in the country. From a criminal economics perspective, the incentives for perpetrators are still higher than the legal risks they face. Therefore, the solution is to strengthen legal certainty by consistently enforcing sanctions, improving inter-agency coordination, and minimizing the economic incentives for perpetrators by monitoring the distribution of illegal cigarettes using intelligence-based tracking technology.

4.2 The Impact of Smuggling Cigarettes with Counterfeit Excise Stamps on State Revenue and the Juridical Solutions to Improve Law Enforcement Effectiveness

The smuggling of cigarettes with counterfeit excise stamps has a direct impact on state revenue, particularly from tobacco excise tax. Excise is one of the strategic sources of state revenue, with its contribution to the State Budget (APBN) being substantial. With the rampant circulation of illegal cigarettes in Batam, the state loses potential revenue that should have been obtained from the payment of official excise stamps. This loss of revenue not only reduces the effectiveness of fiscal policies but also creates distortions in the development-financing system. Illegal cigarettes are sold at much cheaper prices because they do not pay excise taxes, creating unhealthy competition with legal cigarette products that have fulfilled their excise obligations. Consequently, state revenue from excise, which should continue to increase, is hampered.

In addition, the smuggling of illegal cigarettes leads to a decline in legal compliance. Entrepreneurs who choose the illegal route benefit from large profit margins without having to bear the excise burden. This creates an unfair situation for legal businesses that comply with regulations and pay excise obligations, thereby weakening the competitiveness of the domestic legal tobacco industry. Another consequence is the weakening of tobacco consumption-control instruments. Tobacco excise is not only a fiscal instrument but also a regulatory tool for controlling tobacco consumption levels for public health purposes. When illegal cigarettes with counterfeit excise stamps are widely circulated, government efforts to reduce smoking rates, especially among low-income communities, become less effective than intended.

From a macroeconomic perspective, the leakage of state revenue due to illegal cigarettes has the potential to cause billions of rupiahs in losses every year. Empirical research data in Batam show that thousands of illegal cigarette sticks have been seized in various enforcement operations, and when converted into the value of lost excise, the amount is significant. This indicates a serious threat to the fiscal stability of the state (Fadlan, 2019). To address these impacts, the first juridical solution is to strengthen regulations governing the supervision and sanctions of excise tax violations. Revisions to

the criminal provisions in the Excise Law should be made to create a stronger deterrent effect, such as adjusting the amount of fines and criminal penalties to be more proportional to the state's losses.

The second solution is to optimize the application of administrative and legal instruments. Currently, some cases of illegal cigarette smuggling are resolved by simply designating confiscated goods as State Property without criminal sanctions. However, this pattern is not effective in preventing recurrence. Therefore, the procedures for administrative and criminal sanctions must be clear to prevent exploitation by perpetrators (Parameshwara & Riza, 2023). In addition to regulatory reform, juridical solutions can be implemented through improved coordination between the law enforcement agencies. Customs and Excise must collaborate with the police, military (TNI), and prosecutors to strengthen the investigation and prosecution of illegal cigarette sales. With solid collaboration, each uncovered case can be processed more thoroughly, reinforcing the message that excise crimes are serious economic offences. The final solution is to integrate the legal system with modern surveillance technology, such as digital track-and-trace systems for excise stamps, to minimize counterfeiting. Strengthening legal norms, combined with technology use and public education, will enhance law enforcement effectiveness. As a result, state revenue leakage can be reduced, legal businesses protected, and the objectives of excise policies as both fiscal and regulatory instruments can be achieved.

5. Conclusion

5.1 Conclusion

1. The implementation of law enforcement against the circulation of illegal cigarettes with counterfeit excise stamps in Batam has been carried out by the Batam Primary Customs and Excise Office through surveillance, enforcement operations, and risk-based intelligence utilization. However, the main obstacles faced include limitations in personnel and surveillance technology, the vast smuggling-prone areas in Batam as a free trade zone, and the existence of legal loopholes that allow some cases to be resolved administratively without criminal sanctions that would provide a deterrent effect.
2. The smuggling of cigarettes with counterfeit excise stamps has a serious impact on state revenue by causing significant excise leakage, weakening the competitiveness of the legal cigarette industry, and reducing the effectiveness of excise policies as both a fiscal instrument and consumption control tool. Juridical solutions that can be implemented include strengthening regulations with reformulated criminal and administrative sanctions, optimizing synergy between law enforcement agencies, and utilizing modern surveillance technologies, such as a digital track-and-trace system for excise stamps. These steps must be accompanied by raising public legal awareness so that law enforcement becomes more effective and sustainable.

5.2 Suggestions

The Government and the Directorate General of Customs and Excise should adopt minimum sentencing guidelines with clear thresholds for state loss and recidivism, harmonize the law and its implementing rules (statute–government regulation–directorates circulars) to standardize case handling, and enforce integrated inter-agency SOPs (Customs–Police–Prosecutors–Courts) with service-level timelines from seizure to execution. Strengthen oversight via digital track-and-trace of excise bands (unique UID/QR), real-time field verification, factory band-stock audits, and maritime domain awareness along Batam/FTZ routes. Expand corporate liability for licensed excise operators (NPPBKC holders). Earmark DBHCHT funds for intelligence, joint operations, quarterly empty-pack/retail audits and retailer–consumer education. Publish a public performance dashboard (prosecution-to-seizure ratio, average sentencing length, and recidivism). Consider simplifying the tiered excise structure and/or instituting a minimum retail price to close the price-arbitrage gaps that fuel illicit trade.

5.3 Recommendations

1. For Customs and Excise authorities and relevant law enforcement agencies, it is necessary to strengthen regulations and enforce criminal sanctions against illegal cigarette smugglers to create a deterrent effect, while also improving surveillance capacity through the use of modern technologies, such as a digital track-and-trace system for excise stamps.

2. For the government and society, it is important to enhance synergy in prevention efforts by educating the public about the economic and legal impacts of illegal cigarettes and encouraging public participation in reporting smuggling activities to limit the perpetrators' space for illegal excise-related activities.

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