

Legal Policy on Sports Qualifications in Indonesia: Constitutional Implications of Constitutional Court Decision No. 52/PUU-IX/2011

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Abstract

The Phenomenon of Golf and Padel in Legal Policy The qualification of sports has become a matter of debate as to whether these activities are considered entertainment or sports?. The qualification of activities as sports or entertainment is not clearly interpreted in the Constitutional Court Decision Number 52/PUU-IX/2011. This research is a normative legal study, and using a statutory approach and a case approach. The conclusion of this article states that golf is not categorized as entertainment. This is reinforced by Decision Number 52/PUU-IX/2011, which confirms that golf courses are not included in the types of entertainment businesses that are subject to regional taxes. Golf is considered a commercial sports service whose regulation is the authority of the central government, not the regional government. This difference in treatment has resurfaced public debate regarding the principle of fairness in taxation. On the one hand, sports like padel are considered entertainment and are subject to local taxes. On the other hand, golf, often perceived as a sport for the elite, is only subject to value-added tax, not an additional entertainment tax.. However, legally, this policy remains within the corridor of applicable tax regulations, both nationally and regionally. Ultimately, taxes will be returned to the community as a manifestation of their social function, ensuring social justice based on the principle of proportionality. Therefore, harmonizing golf-related laws and regulations is crucial to ensure optimal taxation of golf and padel and ensure legal certainty.

KEYWORDS: *Legal Policy; Sports Qualification; Lessons Learned; Constitutional Court Decision*

Introduction

The development of sports has become a trend in both developed and developing countries. This is because sports fulfill three interrelated aspects: entertainment, solidarity and togetherness, and profit-oriented industry.¹ From an entertainment perspective, sports are a viable alternative for people after their daily routines of work and study, which naturally require a certain amount of refreshment and entertainment. Sports can be a way to alleviate the fatigue and weariness of daily life. In terms of solidarity and togetherness, sports can be a platform for various groups to come together, from villages and cities to the international community.² It's not uncommon for messages of peace and the spirit of upholding sportsmanship to be the primary theme echoed at various sporting events. From an industrial perspective, we can see the development of sports, particularly in countries in Europe, the United States, the Middle East, and even China, where the industry is beginning to optimize sports as an industry oriented towards sustainable profits.³

The fulfillment of three aspects, namely: entertainment, solidarity, and industry simultaneously in one aspect, namely sports, makes sports not just a private event carried out between humans, but sports have metamorphosed into a public dimension so that there is a role for the state in it to participate in building a conducive and sporting sports climate in line with the goals of the Indonesian state. The importance of the state's role in the sports aspect has led countries around the world to begin regulating sports aspects in their respective laws and regulations. In Indonesia, regulations regarding sports aspects are regulated in Law Number 11 of 2022 concerning Sports (Sports Law). This Sports Law was passed on March 16, 2022 as a revision of Law Number 3 of 2005 concerning the National Sports System (SKN Law), which was later declared revoked and no longer valid.⁴ The ratification of the Sports Law is actually one of the hopes of the people regarding a responsive, progressive and productive national sports system so that national sports goals can be achieved with the optimal implementation of the Sports Law.⁵

The Lex Sportiva study is interesting because of Constitutional Court Decision Number 52/PUU-IX/2011, which tests the imposition of golf tax as a regional tax. Several regional governments have designated golf as entertainment and, based on Law

¹ Mitshu Patel, "Exploring and Analysing Sports Laws in India," *International Journal of Law Management & Humanities* 4, no. 1 (2021): 2003–15, <https://www.vidhiaagaz.com>.

² A Di Marco, "Human Rights in the Olympic Movement: The Application of International and European Standards to the Lex Sportiva," *Netherlands Quarterly of Human Rights* 40, no. 3 (2022): 251.

³ Rafał Adamus, "Influence of Insolvency of a Football Club in Poland on the Right to Participate in League Games," *The International Sports Law Journal* 1, no. 2 (2020): 12.

⁴ Wayan Suarsa & Putra Utama, "Match Fixing Di Dunia Sepak Bola Indonesia: Pendekatan Pidana," *Jurnal Kertha Negara* 8, no. 11 (2020): 1–15.

⁵ Juniar Sirait & Khaerul Umam Noer, "Implementasi Kebijakan Keolahragaan Dan Peran Pemangku Kepentingan Dalam Peningkatan Prestasi Atlet The Implementation of Sports Policies and the Role of Stakeholders in Improving Athlete Achievement," *Jurnal Olahraga Prestasi* 17, no. 1 (2021): 1–10.

Number 28 of 2009 concerning Regional Taxes and Regional Levies, it can be designated as a taxable object. However, golf itself is still included in the central tax object, namely considered a taxable service based on Law Number 8 of 1983 concerning Value Added Tax and Sales Tax on Luxury Goods, as last amended by Law Number 42 of 2009. This means there is double taxation on the same object, namely golf. The Indonesian Golf Course Owners Association and golf entrepreneurs objected and filed a judicial review of Article 42 paragraph (2) letter g of the Regional Tax and Regional Levies Law against the 1945 Constitution of the Republic of Indonesia (UUD 1945). They objected because based on this provision, billiards, golf, and bowling are classified as entertainment tax objects, resulting in unequal treatment for sports industry players. Imposing an entertainment tax will result in high rental costs for golf facilities and make them more difficult to afford. Constitutional Court Decision No. 52/PUU-IX/2011 upheld the judicial review of Article 42 paragraph (2) letter g of the Law on Regional Taxes and Levies. The word "golf" in Article 42 paragraph (2) letter g of the Law on Regional Taxes and Levies contradicts the 1945 Constitution and is therefore not legally binding. This ruling has led several regions to revoke regional regulations that included golf tax as a regional tax.

The issue of sports taxes has heated up again. This time, padel has become a topic of discussion after being designated as an object of the Certain Goods and Services Tax (PBJT) by the DKI Jakarta Provincial Government. This sport is currently popular among urban communities because it is considered trendy, healthy, and suitable for all ages. This determination is stated in the Decree of the Regional Revenue Agency (Bapenda) of DKI Jakarta Number 257 of 2025, which officially expands the scope of game sports subject to PBJT, which is a derivative regulation of Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments (HKPD Law).⁶ Thus, the author's questions in this study are: 1). What is the Legal Policy of Sports According to the Science of Lex Sportiva; 2). What is the Legal Policy of Sports Qualifications According to Law Number 11 of 2022 Concerning Sports (Lesson Learned from the Decision of the Constitutional Court Number 52/PUU-IX/2011).

Method

This research is a normative legal research, which uses a doctrinal method in analyzing the principles and norms of legislation related to the Legal Policy of Sports Qualifications According to Law Number 11 of 2022 Concerning Sports (Lesson Learned from the Constitutional Court Decision Number 52/PUU-IX/2011).⁷ There

⁶ Risandy Meda Nurjanah, <https://konsultanpajak-surabaya.com/daftar-olahraga-kena-pajak-di-jakarta-padel-masuk-golf-aman#gsc.tab=0>, Accessed September 21, 2025.

⁷ Usman Rasyid and Rismanto Kaku, "From Bandung to the Constitution: Post-Colonial Constitutional Values in Indonesia, India, and South Africa," *International Journal of Constitutional and Administrative Law* 1, no. 2 (2025): 148–62, <https://ijcal.profesionallegal.com/index.php/ijcal/article/view/44>.

are three approaches used in this research, namely: the statutory regulatory approach, the historical approach and the case approach.⁸ The sources of legal materials consist of primary legal materials, including constitutional texts, constitutional court decisions, and formal amendment provisions, as well as secondary legal materials such as books, peer-reviewed journal articles indexed in Scopus, and scholarly commentaries on constitutional theory and comparative constitutional law. Legal materials are analyzed using qualitative normative analysis, involving systematic interpretation, doctrinal comparison, and evaluative reasoning.⁹

Sports Law Politics According to the Science of Lex Sportiva

Sports have been a part of social life for thousands of years, in different places and in different forms. Therefore, the laws applicable to sports are related to the culture and norms of the society in which the sport is practiced. These laws ensure continuity, fairness, and discipline during the sport, determining the most deserving winner. According to Eksteen, law is defined as a set of rules for action that encompasses almost all aspects of human life. Law aims to oblige people to do something or prevent them from doing something. Violations of the law can result in various forms of punishment, such as confiscation, detention, or compensation. More specifically, there are types of laws that aim to regulate specific areas. One such law is Sports Law, or Lex Sportiva, which contains various regulations regarding the orderly conduct of sports activities that do not violate existing general laws.¹⁰

Gardiner argues that Sports Law is a body of law that encompasses an amalgamation of various disciplines such as contracts, taxation, employment, and criminal law, specifically focused on the organization of sporting activities. The growing body of cases and laws specific to the sports industry demonstrates the existence of Sports Law as a distinct body of law. Matters that have attracted the attention of the courts regarding laws or regulations in the world of sport include issues of contract, employer-employee relations, violations of privacy rights by the media, defamation, and spectator rights, to name a few disciplines that fall under Sports Law. The laws and regulations applicable in the world of international sport, as mentioned above, also apply in Indonesia. Regulations governing contracts, agents, and other

⁸ Afdi Prayoga and Ahmad Imron, "Comparative Study on Judicial Review Mechanisms between Indonesia and South Africa: Implications for Strengthening Constitutionalism," *International Journal of Constitutional and Administrative Law* 1, no. 1 (2025): 84–100, <https://ijcal.profesionallegal.com/index.php/ijcal/article/view/18%0A>.

⁹ Jihan Y Latif and Suci Khairunnisa Latedu, "Ensuring Constitutional Identity: Amendments, Judicial Review, and Public Participation in Constitutional Dynamics," *International Journal of Constitutional and Administrative Law* 1, no. 2 (2025): 101–15, <https://ijcal.profesionallegal.com/index.php/ijcal/article/view/22>.

¹⁰ Kristiyono, "Studi Kasus Kebijakan Mutasi Atlet Pekan Olahraga Daerah (Porda) Daerah Istimewa Yogyakarta (Kajian Hukum Olahraga)" (Universitas Negeri Yogyakarta, 2023).

matters concerning the organization of sporting activities are also regulated before an athlete or player joins a team or engages in official sporting activities.¹¹

From a public perspective, sports law essentially mandates the government's role in establishing a structured, planned, responsive, and progressive national sports system. This emphasizes that the public dimension of sports law places the government's primary role in building a national sports system. Constitutionally, the important role of sports law is also essentially an implementation of Article 28C paragraph (1) of the 1945 Constitution, which essentially emphasizes the state's role in providing guarantees for the public to utilize science, art, and technology for personal development while simultaneously empowering the Indonesian people communally.¹² The public dimension of sports law in the Indonesian context is also manifested in the formulation of the Sports Law, one of the aims of which is to fulfill the demands of the legal needs of society in the sports aspect.¹³

The private dimension of sports law is also increasingly developing, such as professional agreements or contracts for athletes, dispute resolution based on the internal provisions of each sport, and special legal principles in the field of sports law.¹⁴ In legal science, there are general and specific legal principles. There are at least four principles of sports law: *lex sportiva*, *lex ludica*, *lex mercatoria*, and the principle of propriety.¹⁵ Quoting the views of Leonardo V. P. de Oliveira, the principle of *lex sportiva* means that sport has its own legal autonomy so that every dispute in sport is resolved by the internal sport mechanism and not based on positive legal provisions determined by the state.¹⁶

The principle of *lex ludica* according to Ken Foster is an aspect of harmonization and facilitation between sports law and international law and national law in a country.¹⁷ In this context, every branch of sport that is hierarchically subject to branches of sport at the international level is subject to public international law, but is

¹¹ Kristiyono.

¹² Herlambang P Wiratraman, "Artistic Freedom and Legal Boundaries: Navigating Censorship and Expression In Indonesia's Democratic Framework," *Masalah-Masalah Hukum* 54, no. 1 (2025): 102–114, <https://doi.org/10.14710/mmh.54.1.2025.102-114>.

¹³ Eko Noer Kristiyanto, "Urgensi Pembentukan Badan Penyelesaian Sengketa Antara Klub Sepak Bola Dan Pesepak Bola Profesional Dalam Rangka Mendukung Pembangunan Ekonomi Nasional," *Jurnal RechtsVinding* 7, no. 1 (2018): 19, <https://doi.org/10.33331/rechtsvinding.v7i1.222>.

¹⁴ Nurharsya Khaer Hanafie et.al, "Prinsip Dalam Berkontrak Pelaku Olahraga Sepakbola Profesional Di Indonesia," *Jurnal Yustika: Media Hukum Dan Keadilan* 24, no. 2 (2021): 119–130, <https://doi.org/10.24123/yustika.v24i02.4775>.

¹⁵ Maria Francesca Serra, "Lex Sportiva e Lex Mercatoria : Un Confronto," *Nomos* 2, no. 1 (2020): 1–17.

¹⁶ Maria Francesca Serra, "Lex Sportiva: Present And Future Perspectives," *International Sports Law Review Pandektis* 13, no. 2001 (2020): 1–2.

¹⁷ Konstantinos Konstantinidis and Dimitrios Panagiotopoulos, "The Judgment of Sport Jurisdiction Bodies on Doping Cases," *Kutafin University Law Review* 7, no. 1 (2020): 96–107, <https://doi.org/10.17803/2313-5395.2020.1.13.096-107>.

a transnational law which, even though its scope crosses national boundaries, is not a subject of international law.¹⁸ In the context of national law, sports law is actually an autonomous law or *lex specialis* so that the regulations made by the state are limited to facilitation and the state does not have the authority to regulate outside the authority regulated by sports law.¹⁹ Therefore, if it is linked to the hierarchy system of legal norms, then sports law is not completely subject to state law (either to the rules above it or to the constitution of a country), but is subject to special legal principles in the field of sports.²⁰

According to L. I. Zakharova, the principle of *lex mercatoria* is an unwritten dimension of sports law, commonly referred to as the convention of sports law or customary law of sports law, which is customary law that develops in sports practice. This also confirms that sports law also applies to unwritten customs that develop in sports practice. The next principle is the principle of propriety in sports, commonly referred to as the fairness principle.²¹ This principle emphasizes that sports should be able to provide benefits not only for sports participants but also for other parties so that sports can be a means to improve the welfare of society.²² Given the uniqueness of these four principles, specifically in sports law, the state, as a facilitator, must provide space for the application of these four principles of sports law, including in the resolution of sports disputes.

The politics of sports law can be seen in the formulation of the Sports Law by the state, which is expected to facilitate the application of the principles of sports law, particularly in the resolution of sports disputes. Philosophically, the formulation of the Sports Law is intended to implement state goals, one of which is the effort to provide general welfare for the community. This is evident in the state's goal in formulating the Sports Law, which is to improve the welfare of the community, where sports are expected to have a domino effect. From a sociological perspective, the Sports Law actually seeks to improve the national sports system from two perspectives: internally, it seeks to promote sports professionalism through planning, development, and policy implementation, as well as improvements to infrastructure and sports facilities. Externally, the Sports Law is expected to optimize the sports aspect in the economic

¹⁸ Hinca IP Pandjaitan, *Kedaulatan Negara Versus Kedaulatan FIFA* (Jakarta: Gramedia Pustaka Utama, 2013).

¹⁹ Mariusz Szatkowski, "Analysis of the Sports Model in Selected Western European Countries," *Journal of Physical Education and Sport* 22, no. 3 (2022): 829–39, <https://doi.org/10.7752/jpes.2022.03105>.

²⁰ Muhammad Ajid Husain, "Statuta PSSI Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia," *Al-Adl* 14, no. 1 (2022): 12.

²¹ Zakharova L.I, "Lex Mercatoria and Lex Sportiva: Peculiarities, Similarities and Differences," *Lex Russica* 11, no. 1 (2019): 79.

²² OECD, "Effectiveness and Fairness of the Justice System," in *Government at a Glance 2021* (Paris: OECD Publishing, 2021).

and business aspects so that it can empower the community, including orientation to create jobs and reduce unemployment rates in Indonesia.²³

From a legal perspective, the formulation of the Sports Law was intended to address the shortcomings of the previous law, Law Number 3 of 2005. Nomenclature-wise, the Sports Law uses the term "keolahragan" (sports) as the official name. Grammatically, the prefix "ke-an" (sports) has a broad and abstract meaning. According to the Big Indonesian Dictionary (KBBI), "keolahragan" (sports) refers to anything or all aspects related to sports. This is certainly different from the previous law, Law Number 3 of 2005, which used the nomenclature "SKN" (National Sports Standards). In the author's opinion, the nomenclature "sports" in the Sports Law is broad (extensive), thus orienting sports towards a domino effect in society, particularly in the area of economic empowerment.²⁴

One of the main problems that arise in the process of transforming *Lex Sportiva* into the Indonesian Sports Law System is that, in practice, the binding power of the principles, rules, and doctrines/teachings of *Lex Sportiva* is stronger than the binding power of the principles, rules, and norms of laws and regulations in the field of sports. As a result, when the power of the two is pushed against each other, the power of *Lex Sportiva* is more dominant. Therefore, it is proposed that the transformation of *Lex Sportiva* into the Indonesian Sports Law System be structured in a Legal Policy that is clearly designed, planned, gradual, orderly, and measurable so that it can achieve the desired goals. Planned in the sense that it is carefully planned in the National Legal Development Plan. Gradual in the sense that it is carried out in systematic and clear stages with a strong foundation. Orderly in the sense that the stages are arranged in an orderly manner from one stage to the next. And measurable in the sense that each step taken has a clear measurement.²⁵

Legal Policy of Sports Qualifications According to the Sports Law (Lesson Learned from Constitutional Court Decision Number 52/PUU-IX/2011)

1) Golf and Constitutional Court Decision Number 52/PUU-IX/2011: Sport or Entertainment?

Differences in perception regarding a debatable sport like golf stem primarily from the definition of golf itself. Golf entrepreneurs base their classification of golf as a non-taxable sport on practical understanding, not Law Number 3 of 2005 concerning the National Sports System. The article on sports and golf refers to sports contested at the National Sports Week (PON), and to differentiate between them, the definition of

²³ Dicky Eko Prasetio, "Politik Hukum Perselisihan Keolahragan: Problematika Dan Upaya Pengaturannya Dalam Perspektif Hukum Progresif," *Universitas Negeri Surabaya*, 2023, 7, https://www.researchgate.net/publication/375028674_Politik_Hukum_Sengketa_Keolahragan_Problematika_dan_Upaya_Pengaturannya_dalam_Perspektif_Hukum_Progresif.

²⁴ Dicky Eko Prasetio.

²⁵ Dicky Eko Prasetio.

entertainment is also taken from the KBBI (Big Indonesian Dictionary). Meanwhile, the government views golf as entertainment based on Article 42 paragraph (2) letter g of the Regional Tax and Regional Retribution Law, which states, "Entertainment as referred to in paragraph (1) is billiards, golf, and bowling." Article 1 number 25 states, "Entertainment is all spectacles, shows, games, and/or crowds enjoyed for payment." Entertainment Tax, on the other hand, is a tax on entertainment (Article 1 number 24). By classifying golf as entertainment, the Petitioners object to the tax being levied.

According to the author, golf and padel are forms of entertainment that contain elements of sport. Golf cannot be viewed in a single, monolithic way. Many people enjoy golf as a form of entertainment and weekend recreation, while also embracing image-building to gain entry into the prestigious socioeconomic segment, or as a means of communication and fostering friendships and business with elite groups. Therefore, the impression that golf is an exclusive sport inevitably arises.

By drawing conclusions from the practice of golf being contested in the PON (National Sports Week) and not from a clear norm based on the Sports Law's definition of golf as a sport, and then comparing it with Article 42 paragraph (2) letter g of Law Number 28 of 2009 as entertainment, which, according to Golf Entrepreneurs, is then taxed, it is deemed to be in conflict with Article 28D paragraph (1) and Article 28I paragraph (2) of the 1945 Constitution. This is certainly incorrect, because the same term, when placed in different scientific fields, will have different meanings. This is due to the different emphases. In legal history, the definition of a human being can differ from one another. Is a human being a person? The answer is that a human being is not necessarily a person, because in Roman times, people could be both legal subjects and legal objects. People who were not legal subjects were called slaves and could be bought and sold. Only people with rights and obligations were considered legal subjects.²⁶

Likewise, in Boergerlijk Wetboek (BW), the definition of adultery is when there is sexual relations between two people who are not legally married, one of whom already has a wife or husband. In the understanding of Islamic law, zina is a relationship between two men and women who are not bound by a legal marriage.²⁷ Likewise the term "manipulation" in accounting science,²⁸ The meaning of "manipulation" cannot be equated with "manipulation" in criminal law. This is not contradictory. Likewise, the term "golf," derived from practice, and the terms "golf" and "padel" as defined in Law Number 28 of 2009, cannot be contradicted, as each has its own perspective

²⁶ Yuka Dinda Permata, "Penerapan Standar Kelengkapan Keselamatan Dan Peralataan Serta Jaminan Kesehatan Selama Bekerja Bagi Pekerja Atau Buruh Terhadap Karyawan Yang Mengalami Kecelakaan Kerja Namun Tetap Di Phk Oleh Perusahaan Tempat Dia Bekerja," *Jurnal Nalar Keadilan* 2, no. 2 (2022): 74–91.

²⁷ Imam Supriyadi, "Komparasi Anak Zina Dan Anak Angkat Menurut BW Dan Hukum Islam," *The Indonesian Journal of Islamic Law and Civil Law* 1, no. 1 (2020): 17–36.

²⁸ Etika Hafiez Sofyani & Nadia Rahma, "Kenapa Seseorang Melakukan Manipulasi Laporan Keuangan?: Studi Dengan Pendekatan Skenario Kasus Dilema," *Jurnal Akuntansi Dan Keuangan Islam* 5, no. 1 (2017): 31–46.

according to its system. Therefore, golf must be viewed from a tax law perspective, not from sports law according to the Sports Law.

Considering that golf and padel are mostly played by certain individuals with sufficient means, it is appropriate that golf be regulated in accordance with a fair distribution of the burden and capacity based on the taxpayer's ability to pay. The greater the ability to pay, the greater the burden imposed. This is all an effort to equalize social justice. Viewed from the principle of proportionality, this is proportional. The principle of proportionality contains three sub-principles: first, suitability/suitability; second, necessity; and third, proportionality in the narrow sense.²⁹

The principles of suitability and necessity relate to the facts that make it possible. Suitability also means that a principle can influence the possibility of realizing another principle. For example, an influence that brings it closer to the principle of social justice. The principle of proportionality, in the narrow sense, means that such an event is possible. The imposition of a tax on golf games is only possible at a maximum of 35%, which is not paid by the golf course owner but by the golfers themselves, because those who enjoy the entertainment of golf, while the taxpayer is the individual or entity that organizes the golf game.³⁰

According to the World Bank, with economic growth of 6.3% per year, Indonesia's middle class has grown significantly. According to data from the Central Statistics Agency (BPS) in 2024, more than 50 million Indonesians will be in the middle class. Their demands will also increase, including in the entertainment sector, and it is not impossible that golf courses will benefit positively. So far, there has been no news of golf course operators going bankrupt or closing due to the imposition of the entertainment tax.

Golf operators simply draw conclusions based on the practice of golf being contested in sporting events, but do not explicitly mention the article on golf in the Sports Law. Article 1 paragraph (4) of the National Sports Week Law does not mention golf. Article 1, points 11, 12, 13, 14, 15, and 16 of the National Sports Week Law classify sports into educational, recreational, competitive, amateur, professional, and disabled sports. However, the argument that this practice contradicts the classification of golf as entertainment as stipulated in Article 42 paragraph (2) letter g, so the issue is legal, not constitutional.

Therefore, Article 42 paragraph (2) letter g of the a quo Law is not incorrect in including golf as entertainment. Furthermore, it is clear that golfers are charged a fee, and therefore, it is subject to entertainment tax, which is a service for organizing paid entertainment. Ultimately, the tax will be returned to the community as a

²⁹ Syamsul Fatoni et.al, "Asas Proporsionalitas: Perspektif Hukum Positif Dan Maqosid Syariah Dalam Sistem Peradilan Pidana," *Jurnal Hukum Ius Quia Iustum* 32, no. 1 (2025): 46-71, <https://doi.org/10.20885/iustum.vol32.iss1.art3>.

³⁰ M. Reza Baihaki, "Penilaian Unsur Penyalahgunaan Wewenang (Detournement De Pouvoir) Berdasarkan Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 20, no. 1 (2023): 119.

manifestation of its social function to create social justice based on the principle of proportionality.

Article 5 of the Sports Law states, "Sports are organized based on the following principles: a. nationality; b. mutual cooperation; c. justice; d. cultural development; e. benefit; f. diversity; g. participation; h. integration; i. sustainability; j. accessibility; k. sportsmanship; l. democracy; m. accountability; and n. order and legal certainty."

As stipulated in Article 13 paragraph (1) of the Sports Law, the government has the authority to regulate, foster, develop, implement, and supervise the organization of sports nationally. The authority granted by the law to implement the development and development of the sports system refers to Article 17 of the Sports Law, which states, "Educational sports, recreational sports, and competitive sports." The definition of these three categories of sports is that educational sports are physical education and sports carried out as part of a regular and continuous educational process to acquire knowledge, personality, skills, health, and physical fitness.

Recreational sports are sports played by the community, with hobbies and abilities that grow and develop in accordance with the conditions and cultural values of the local community for health, fitness, and enjoyment. Meanwhile, competitive sports are sports that foster and develop athletes in a planned, tiered, and sustainable manner, through competitions to achieve achievements supported by family science and technology. That paying attention to the main points of testing Article 42 paragraph (2) letter g of Law Number 28 of 2009 against the 1945 Constitution, among other things, it is stated that billiards, golf and bowling are classified as objects of entertainment tax which results in unequal treatment for sports industry players, which is in fact the Government's obligation to foster and encourage the development of the sports facilities industry, as regulated in the provisions of Article 6 letter g of the Sports Law which reads, "Every citizen has the same right to develop the sports industry." In conjunction with Article 74 of the Sports Law which reads, "The Central Government fosters and encourages the development of the domestic Sports Facilities industry." In conjunction with Article 90 of the Sports Law which reads, "Every implementation of the sports industry carried out by the Government, regional governments or the community must pay attention to the objectives of national citizenship and the principles of organizing sports."

Therefore, classifying billiards, bowling, golf, and padel as taxable sports and entertainment tax objects could actually be detrimental to athletes as legal subjects when they exercise. By imposing entertainment tax on billiards, golf, and bowling infrastructure, infrastructure rental costs become high and difficult for athletes to afford to train and develop to achieve success, both nationally and internationally. Billiards, golf, and bowling are members of the Indonesian National Sports Committee, which is tasked with and responsible for training and developing billiards, golf, and bowling athletes, as competitive sports, so they can achieve success. This is in accordance with Article 28 Paragraph (2) of the Sports Law, which stipulates that the development and development of competitive sports, as referred to in paragraph (1), is

carried out by the Regency/City Sports Organization, the Provincial Sports Organization, and the National Sports Organization.

It should be emphasized that the Government, in principle, welcomes community initiatives and participation in assisting the Government in providing sports infrastructure, which has so far been limited for certain purposes. The role of sports practitioners is mandated by law, as stipulated in Article 10 of the Sports Law, which states, "The public has the right to participate in the planning, development, implementation, and supervision of sports activities. The public is obliged to provide resource support for the organization of sports."

Article 73 Paragraph (1) of the Sports Law states, "The government, regional governments, and the public are responsible for the planning, management, utilization, maintenance, and supervision of sports infrastructure." In conjunction with Article 88 Paragraph (1) of the Sports Law, it states, "The public has equal and broad opportunities to participate in sports activities. The public participation referred to in paragraph (1) may be carried out by individuals, groups, families, organizations, professions, legal entities, business entities, or other community organizations in accordance with the principles of openness and partnership."

From the perspective of the Sports Law, billiards, golf, and bowling can be categorized within the scope of competitive sports and not as a form of entertainment because with the establishment of the Indonesian Billiards Sports Association (POBSI) on October 9, 1953, the Indonesian Golf Association (PGI) on April 8, 1966, and the Indonesian Bowling Association (PBI) on November 19, 1970, POBSI, PGI, and PBI are the parent organizations of sports branches that have responsibility for the development and coaching of billiards, golf, and bowling. This is in accordance with the provisions of Article 28 Paragraph (1) of the Sports Law, "The development and development of competitive sports is carried out by empowering sports associations, developing national and regional sports development centers, and holding competitions in a tiered and sustainable manner."

Where the development carried out by these sports associations is required to write national technical standards for the sports branches in question. This is mandated by Article 73 of the Sports Law, which states: "The government, regional governments, and the community are responsible for the planning, procurement, utilization, maintenance, and supervision of sports infrastructure. The government and regional governments guarantee the availability of sports infrastructure in accordance with the standards required by the government and regional governments."

The de facto classification of billiards, golf, and bowling as competitive sports and not recreational sports is due to the fact that POBSI, PGI, and PBI, as the parent organizations of these sports, are affiliated with the relevant international sports federations, namely the World Pool Billiards Association, the International Golf Federation, and the International Bowling Federation. This is in accordance with Article 1, number 25, which states, "The parent organization of a sports branch is the parent organization of a sport that fosters, develops, and coordinates a sport or a

combination of sports organizations within a single sport that are members of the relevant international sports federation."

The Ministry of Youth and Sports (Kemenpora) has issued policy recommendations to the Government regarding billiards, golf, equestrianism, and motor racing, urging the Government to exempt these sports from the entertainment category through regional regulations. Considering the above recommendations, the Ministry of Youth and Sports has also formulated tax policies to support the improvement of national sports achievements, implemented by the Ministry on March 23, 2011. It has determined matters requiring special attention to foster sports achievements, requiring incentives for athletes who achieve success, such as exemption from prizes. Prizes given to athletes should be reduced, and if possible, exempted from gift tax. Donations from parties wishing to assist in sports development should be reduced, and if possible, exempted from gift tax from Income Tax (PPh) and Value Added Tax (VAT), exemption from import duties, training equipment from abroad that is currently subject to Income Tax and Value Added Tax, donations for infrastructure and facilities, athlete performance bonuses, and exemption from VAT.

The examination of team results is currently increasingly complex, particularly regarding awards for athletes. Tax policies are requested to foster and instill a lifelong interest in sports in everyone. To stimulate this, special treatment is required in the sports sector, a task entirely borne by the government, as mandated by Article 23 of the Sports Law, which mandates that the government foster and develop sports through policymaking, training, coordination, consultation, communication, outreach, guidance, popularization, pioneering, research, trials, competitions, assistance, facilitation, licensing, and supervision.

Efforts worthy of consideration in granting incentives are those that align with the foundation, function, and goals of Indonesian national development in the field of sports. Every effort has been made to obtain this treatment, but to date, this special treatment still requires a long struggle. One such special tax treatment that has significantly assisted the world of sports and whose benefits are greatly felt is the Minister of Finance's regulation on exemption from import duties on imported goods for sports purposes imported by national sports organizations.

The Ministry of Finance and the Ministry of Youth and Sports share a common goal: to assist the government in administering government affairs within their respective jurisdictions. The Ministry's program to foster community achievement and creativity, particularly in the field of sports, requires its own policies with specific regulations. Tax incentives in the world of sports remain a serious concern and require special treatment to ensure athletes can continue to develop their achievements without being tied to expensive infrastructure rental costs resulting from land ownership due to entertainment taxes, which in turn leads to high rental costs for athletes. The government is partnering with sports practitioners who have previously assisted the government, but are unable to provide the necessary infrastructure, as stipulated in Article 92 of the Sports Law, which states that the development and development of

the sports industry is carried out through mutually beneficial partnerships to achieve independent and professional sports activities. The government or regional governments are facilitating the establishment of centers for the development and guidance of the sports industry. In sports law, an activity is considered a sport if it contains several elements, namely: (i) the existence of rules that regulate the game mechanism, (ii) the existence of official competitions, which are specifically oriented towards winning matches up to the championship, and (iii) all its implementation is based on the principle of fair play. If referring to the three aspects related to the elements contained in the sport above, it can be said that golf is considered a sport if there are rules, a competitive orientation, and its implementation is based on the principle of fair play. If these three aspects are met, then it can be said that golf is a branch of sport and should be exempt from taxes, both national taxes and central taxes, as well as regional taxes.³¹

Exempting a particular sport from taxation is justified. This is because, philosophically, taxes can be imposed on anything of an economic nature. In this context, sport is not economically oriented, but rather public-oriented, namely, bringing honor to the nation and state if the sport can achieve success at the national level, and the sport can create new jobs for athletes and non-athletes involved in the sport. However, over time, golf has become more than just a sport, but also a lifestyle for the wealthy. One of the main characteristics of golf as a sport is its orientation towards maintaining public fitness, including the possibility of achieving certain achievements.³²

This is certainly different from the position of golf as entertainment or a lifestyle for people with middle to upper economic levels, because in this aspect, golf is identified with luxury and supporting facilities that tend to be luxurious. The main difference between golf as a sport and as entertainment is that if golf as a sport is not oriented towards luxurious golf supporting facilities and tends to only meet the standards or provisions of golf supporting facilities and infrastructure, while golf as entertainment focuses more on aspects of facilities and infrastructure that tend to be luxurious and are not oriented towards improving achievements in sports.³³

Referring to the Constitutional Court Decision Number 52/PUU-IX/2011, although the principles of taxation are not explicitly stated in various laws and regulations, it is necessary to understand in legal doctrine that the principles of taxation must adhere to several principles, namely: the principles of justice, legal certainty, and

³¹ Dicky Eko Prasetio et.al, "Legal Uncertainty of Golf Game as Sports and Entertainment Branch in Local Tax Imposition," *Jurnal Wawasan Yuridika* 8, no. 1 (2024): 76–93, <https://doi.org/10.25072/jwy.v8i1.4369>.

³² Dicky Eko Prasetio et.al.

³³ Fitri Yuliana et.al, "Perkembangan Stigma Olahraga Golf Sebagai Olahraga Kaum Elite Di Indonesia Dari Perspektif Pendidikan," *Jurnal Lingkar Pendidikan (JLP)* 2, no. 1 (2023): 14–23, <https://journal.unilak.ac.id/index.php/jlp/article/view/13305>.

equality before the law.³⁴ The principle of justice emphasizes that the imposition of taxes must be based on the aspect of justice, where the object of taxation must truly be something that is economically worthy of being taxed.³⁵ The principle of legal certainty emphasizes that the imposition of taxes and their procedures must be clear and regulated in various laws and regulations to ensure clarity regarding the imposition of taxes on taxpayers, including efforts to minimize arbitrary actions by tax officials.³⁶ The principle of equality before the law ensures that taxes can be imposed without discrimination and applied proportionally to all members of society.³⁷

Another important aspect of Constitutional Court Decision No. 52/PUU-IX/2011 is that the primary characteristic of sport is entertainment. Entertainment, as defined in Constitutional Court Decision No. 52/PUU-IX/2011, aims to entertain the general public. Indeed, in general, every sport serves the purpose of entertainment. However, not all activities aimed at entertainment, such as sports, are subject to entertainment tax. In this regard, Constitutional Court Decision No. 52/PUU-IX/2011 correctly stated that the entertainment element in sports cannot be equated with the entertainment element in all other activities subject to entertainment tax. Law No. 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law) also does not specifically define entertainment that is subject to entertainment tax. The HPP Law only explains that entertainment tax is a tax imposed on artists or entertainers who are profit-oriented.³⁸

The key point of Constitutional Court Decision No. 52/PUU-IX/2011 is to emphasize that the entertainment aspect of sports is not subject to entertainment tax or arts tax because the entertainment aspect of sports is entertainment within the context of a competition and aims to attract public interest in a particular sport. Constitutional Court Decision No. 52/PUU-IX/2011 correctly positions the entertainment tax exemption for sports. Legal issues arise regarding the accuracy of the assertion that golf is a sport and therefore subject to entertainment tax. Referring to its development, there is indeed golf intended as a sporting facility with an emphasis on its competitive aspect. However, there is also golf used as a luxury facility, indicating the economic status of the middle to upper class.³⁹

³⁴ Yesi Arfianto, "Penerapan Asas Keadilan, Kemanfaatan Dan Kepastian Hukum Dalam Kebijakan Pengampunan Pajak (Tax Amnesty) Di Indonesia," *Wijayakusuma Law Review* 3, no. 1 (2021): 55–66, <https://doi.org/10.51921/jehs6x39>.

³⁵ Sudjana, "Penerapan Asas Keadilan Dan Kepastian Hukum Terhadap Pajak Penghasilan Final Bagi Usaha Kecil," *Jurnal Hukum Sasana* 6, no. 2 (2020): 110–28, <https://doi.org/10.31599/sasana.v6i2.383>.

³⁶ Alexander V Demin, "Certainty and Uncertainty in Tax Law: Do Opposites Attract?," *Laws* 9, no. 4 (2020): 1–30, <https://doi.org/10.3390/laws9040030>.

³⁷ Hari Hasan, "Prinsip Kesamaan Kedudukan Hukum Dalam Penyelesaian Sengketa Pajak Di Indonesia," *Jurnal Gagasan Hukum* 2, no. 1 (2020): 52–70, <https://doi.org/10.31849/jgh.v2i01.8235>.

³⁸ Dicky Eko Prasetyo et.al, "Legal Uncertainty of Golf Game as Sports and Entertainment Branch in Local Tax Imposition."

³⁹ Dicky Eko Prasetyo et.al.

In this context, Constitutional Court Decision No. 52/PUU-IX/2011 has not analyzed the development of golf in depth and only categorizes golf as a sport. However, it is necessary to distinguish between golf as a sport and golf as a luxury facility that is subject to entertainment tax. The legal uncertainty of golf as a sport and entertainment that has not been accommodated in various existing laws and regulations is theoretically emphasized by Gustav Radbruch, namely that an important characteristic of positive law in order to ensure legal certainty is that positive law must refer to and be based on existing facts. Facts are the most important aspect that must be referred to by positive law so that positive law can be optimally enforced and its interpretation is correct.⁴⁰

Referring to Gustav Radbruch's view that requires positive law to accommodate the existing facts related to the regulation of golf as a sport and entertainment, this shows that the regulations of the Sports Law, the HPP Law, and the HKPD Law have not actually accommodated the relevant facts related to golf because both the HPP Law and the HKPD Law only identify golf as a sport. Golf is essentially not only a sport, but on the one hand is a lifestyle and a special sporting facility for elite groups, especially those with middle to upper economic levels.⁴¹

The legal uncertainty surrounding the regulation of golf as a sport and as entertainment, in particular, has implications for the imposition of regional taxes. The assertion that golf is a sport actually implies that golf cannot be subject to regional taxation. This is actually in line with the ratio decidendi of Constitutional Court Decision Number 52/PUU-IX/2011, which in principle holds that as a sport, golf cannot be subject to regional taxation, because on the one hand, it is already subject to VAT. Imposing two types of taxes on one sport contradicts the purpose of taxation, namely that one should not burden the public. At first glance, Constitutional Court Decision Number 52/PUU-IX/2011 is positively oriented, prohibiting excessive taxation on sports. However, Constitutional Court Decision Number 52/PUU-IX/2011 can be said to be less comprehensive because it only qualifies golf as a sport, which in fact, golf is not just a sport but in certain aspects has become a lifestyle and luxury facility for the middle to upper economic class, so it can be qualified as entertainment that is subject to regional taxation.⁴²

2) The Phenomenon of the "New" Sport of Padel and the Imposition of Taxes Based on Constitutional Court Decision Number 52/PUU-IX/2011

Padel, which originated in Mexico, has now become a favorite sport in Indonesia. Padel is becoming a healthy lifestyle trend in Indonesia. This sport is perceived as exciting, challenging, and healthy for all ages. Today, padel is not just a performance

⁴⁰ Dicky Eko Prasetyo et.al.

⁴¹ Dicky Eko Prasetyo et.al.

⁴² Dicky Eko Prasetyo et.al.

sport, but has transformed into a social platform, a stress reliever, and a new alternative for maintaining fitness.⁴³

Padel was first played in Acapulco, Mexico, in 1969. It began with Enrique Corcuera, who wanted to play tennis using the squash courts near his house. From there, Enrique created a sport he called "Paddle Corcuera." He then tried to encourage his friends to try his invention, including Alfonso of Hohenlohe-Langenburg, a Spaniard.⁴⁴ Immediately after trying it, Alfonso fell in love with the sport. He then decided to introduce the sport to his country by building the first two padel courts at a tennis club in Marbella, Spain, in 1974. However, the padel he introduced to his country had been modified from the original concept proposed by Enrique, making it more competitive.⁴⁵ On July 12, 1991, the sport of padel began to be developed as an official sport by establishing the Federation International de Padel (FIP) in Madrid, Spain.⁴⁶

Public awareness of healthy living has driven the proliferation of paid sports venues in Jakarta. Consequently, the local government has adjusted regulations to ensure that entertainment taxes reflect real economic developments. As of May 20, 2025, 21 types of games will be officially subject to PBJT tax. The list includes:

Table 1. 21 Types of Sports Subject to Entertainment Tax

Number	Types of Sports
1	<i>Fitness/Yoga/Pilates/Zumba</i>
2	Futsal, Soccer, <i>Mini Soccer</i>
3	Tennis
4	Swimming
5	Basketball
6	Badminton
7	Volleyball
8	Table Tennis
9	<i>Squash</i>
10	Archery
11	Baseball/Softball
12	Shooting
13	Bowling
14	Billiard
15	Jet Skiing

⁴³ Anggita Nurmallasari, <https://wpr.co.id/olahraga-padel-indonesia/>, Accessed September 21, 2025.

⁴⁴ Oscar Villanueva Guerrero et.al, "Effects of a Strength Program On Physical Performance In Amateur Padel Players," *Padel Scientific Journal* 2, no. 2 (2024): 171–84, <https://doi.org/10.17398/2952-2218.2.171>.

⁴⁵ Jose A Parraca et.al, "Heart Rate Variability Monitoring during a Padel Match," *International Journal of Environmental Research and Public Health* 19, no. 6 (2022): 3623, <https://doi.org/10.3390/ijerph19063623>.

⁴⁶ https://juaraga.id/blogs/all/kenali-apa-itu-padel-olahraga-yang-sedang-berkembang-di-indonesia?srsId=AfmBOool8gy6o3R-yyXiXJPuFqn8tenFUg1JyGJDMsLkI_5dHx-bCpHN, Accessed September 21, 2025.

16	<i>Ice Skating</i>
17	Rock Climbing
18	Horse Riding
19	Boxing/Martial Arts
20	Athletics/Running
21	Paddle Boarding

Source: Risandy Meda Nurjanah

However, the public needs to understand that taxes are levied on Padel, not on the sport itself, but on the use of paid venues or facilities provided by third parties. Interestingly, golf is not included in the list of PBJT regulated by the DKI Jakarta Provincial Government. This raises questions among the public: why is padel subject to regional tax, but golf is not? The answer lies in central tax regulations. Based on Minister of Finance Regulation (PMK) Number 70/PMK.03/2022, the provision of space and facilities for golf is still subject to VAT, not PBJT. Therefore, golf is still taxable, but under a different scheme and is no longer regulated by regional taxes.

Although currently widely discussed, taxes on paid sports are nothing new. Under the Regional Tax and Retribution Law, activities such as billiards, bowling, horse racing, padel, and even sporting events have long been subject to entertainment tax. Now, under the applicable HKPD Law, entertainment tax is included in the PBJT category, which also includes food and beverage services, parking, and hotel services. Head of the DKI Jakarta Regional Revenue Agency, Lusiana Herawati, explained that this tax is fair and transparent.⁴⁷

As long as a padel court is not rented or commercialized, private sports activities are not subject to PBJT (Planned Land and Building Tax). However, remember that the land is subject to Land and Building Tax (PBB) in accordance with applicable regulations. It's important to understand that taxation on sports through the PBJT scheme is entirely the responsibility of the regional government. This means that each province or city can have different regulations and treatment, both in terms of rates and the types of sports subject to tax. So, if padel is taxed in Jakarta, it might not be the same in other regions; it all depends on the policies of each regional head.

Golf is not categorized as entertainment. This is reinforced by Constitutional Court Decision No. 52/PUU-IX/2011, which confirms that golf courses are not included in the types of entertainment businesses subject to regional tax. Golf is considered a commercial sports service whose regulation falls under the authority of the central government, not the regional government. This difference in treatment has resurfaced public debate regarding the principle of fairness in taxation. On the one hand, sports like padel are considered entertainment and are subject to regional tax. On the other hand, golf, often perceived as a luxury, is only subject to VAT, not an

⁴⁷ <https://bapenda.jakarta.go.id/berita/pemungutan-pbjt-atas-jasa-kesenian-dan-hiburan-terhadap-olahraga-padel>, Accessed September 21, 2025.

additional entertainment tax. However, legally, this policy remains within the corridor of applicable tax regulations, both nationally and regionally.⁴⁸

The suggestion regarding this research is that the legislators (House of Representatives and President)⁴⁹ it is necessary to consider the status of golf and padel as entertainment and sports related to the imposition of regional taxes, which implies that golf and padel as sports are only subject to VAT and therefore cannot be subject to regional taxes. It is necessary to categorize golf and padel into two aspects, namely golf and padel as sports that are only subject to VAT, while golf, which in certain cases has become a lifestyle and luxury facility for people with middle to upper economic levels, can be categorized as entertainment that can be subject to regional taxes. Harmonization of laws and regulations related to golf is also important so that the imposition of taxes related to golf and padel can be optimal and ensure legal certainty.

Conclusion

Golf is not categorized as entertainment. This is reinforced by Constitutional Court Decision No. 52/PUU-IX/2011, which affirms that golf courses are not included in the types of entertainment businesses subject to regional taxes. Golf is considered a commercial sports service whose regulation falls under the authority of the central government, not the regional governments. This difference in treatment has resurfaced public debate regarding the principle of fairness in taxation. On the one hand, sports like padel are considered entertainment and subject to regional taxes. On the other hand, golf, often perceived as a sport for the elite, is subject only to VAT, not an additional entertainment tax. However, legally, this policy remains within the scope of applicable tax regulations, both nationally and regionally. Ultimately, taxes will be returned to the community as a manifestation of their social function, aimed at creating social justice based on the principle of proportionality. Therefore, harmonization of laws and regulations related to golf is also important to optimize taxation related to golf and padel and ensure legal certainty.

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⁴⁸ Thalia Aqilah Murtopo, <https://taxcentrei.org/kabar/255>, Accessed September 21, 2025.

⁴⁹ Putra Perdana Ahmad Saifulloh et.al, "Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System," *Jambura Law Review* 7, no. 2 (2025): 521–58, <https://doi.org/10.33756/jlr.v7i2.29684>.

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