

The Role of Land Associates Officials (PPAT) in Collection of BPHTB Tax on Land & Building Transactions for Sale & Building

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Abstract. *The legal act of transferring rights to land and/or buildings must always be followed by the making of the necessary deeds, as specifically regulated on this matter. Which deeds must be made by the competent official for this, namely the Official for Making Land Deeds (PPAT), where in certain cases the deed is made by a notary. Thus, the government in its issued regulation has assigned the official making the deed to participate in supervising the payment of taxes payable on the said land and/or building transactions. However, in its implementation there are still many obstacles that arise, especially there is still tax avoidance in land transactions, and a lack of understanding of the calculation and payment of Land Rights Acquisition Tax (BPHTB) by taxpayers, which results in the main tax function to fill State cash receipts, which are often referred to as budgetary functions, which are not well implemented. In the collection of Land Rights Acquisition Fees (BPHTB) in connection with the deed he makes, it is hoped that the Notary as PPAT will play an active role requiring payment of Land Rights Acquisition Fee (BPHTB) in transferring rights to land and buildings, which after the agreement is made and the payment transaction is made, the tax must be paid as soon as possible, then its correctness is checked so that the deed can be signed immediately.*

Keywords: Role of PPAT; BPHTB Tax; Land Sale & Purchase.

1. Introduction

The Republic of Indonesia is a rule of law, according to Mochtar Kusumaatmaja. Each country has different sources of income, tax is one of the sources of revenue from the State which is used to carry out development for all Indonesian people. Taxes are one of the obligations that are collected from the people. Tax as a potential source of state revenue. Although taxes are the largest contributor to funds in development, in reality, public awareness in paying taxes is still lacking. There are still many people who carry out activities to not pay taxes or reduce the amount of taxes they pay.

In Indonesia, in general, taxes can be divided into two, namely central taxes and local taxes. Central Tax is a tax that is managed by the Directorate General of Taxes,

Ministry of Finance. Meanwhile, local taxes are taxes that are managed by regional governments at both the provincial and district/city levels.¹

Central taxes managed by the Directorate General of Taxes include:

- a. Income Tax (PPh);
- b. Value Added Tax (VAT);
- c. Sales tax on luxury goods (PPn BM);
- d. Stamp Duty;
- e. Excise.

Taxes collected by local governments both provincial and Regency/City includes, among others:

- a. Provincial Tax
 - 1) Vehicle tax;
 - 2) Transfer of Motor Vehicle Title Fee;
 - 3) Motor Vehicle Fuel Tax;
 - 4) Surface Water Tax;
 - 5) Cigarette Tax.
- b. Regency/city tax
 - 1) Hotel Tax;
 - 2) Restaurant tax;
 - 3) Entertainment Tax;
 - 4) Advertisement tax;
 - 5) Street Lighting Tax;
 - 6) Non-Metal Mineral and Rock Tax;
 - 7) Parking Tax;
 - 8) Groundwater Tax;
 - 9) Swallow's Nest Tax;
 - 10) Rural and Urban Land and Building Tax and;
 - 11) Fees for Acquisition of Land and Building Rights.²

A potential source of taxes that should be explored according to the situation and economic conditions as well as the current development of the State is the type of Tax on Acquisition of Rights on Land and Buildings (BPHTB). Based on Act No 28 of 2009 concerning Regional Taxes and Regional Levies, Article 2 paragraph (2), states that the Fees for Acquiring Rights on Land and Buildings (BPHTB) have become Regency/City Regional Taxes. Acquisition Fee on Land and Building, hereinafter abbreviated as BPHTB, is a tax on the acquisition of land and/or building rights. Tax on Acquisition of Land and Building Rights (BPHTB) is one of the objective taxes or material taxes where the tax payable is based first on what is the object of the tax and then considers who is the subject of the tax.³

¹ Article 2 paragraph (1) and (2) Law of the Republic of Indonesia Number 28 of 2009 concerning Regional Taxes and Regional Levies.

² Soemitro, Rochman. (1997). *“Dasar-dasar Hukum Pajak dan Pajak Pendapatan”*, Jakarta : PT. Eresco. p. 1

³ Siahaan, Marihot Paha. (2005). *“Bea Perolehan Hak Atas Tanah Dan Bangunan Teori Dan Praktek*, Ed. I, print. I”, Jakarta : Raja Grafindo Persada. p.59.

The implementation of BPHTB involves many related parties, such as: Land Office, Notary, Land Deed Maker (PPAT) officials, Banks, Local Governments, Courts including the institutions that are under it, besides that the regulations that support the implementation of BPHTB are also interrelated between one another. The Official for Making Land Deeds (PPAT) is a state official who is authorized by law where in front of him there can be a transfer of rights transactions which simultaneously results in the acquisition of rights to land and buildings. So that by itself it can be used as an intermediary for collecting fees for the acquisition of land and building rights. As a general official, in this case a Notary as the Official for Making Land Deeds (PPAT), in terms of carrying out his work as a land deed maker, it cannot be separated from taxation,

Transactions of transfer of title to land and buildings due to the sale and purchase are conducted before PPAT to ensure legal certainty for the transfer of rights to land and buildings. In carrying out its position, PPAT must provide an explanation of the deed of transfer of rights and obligations that must be fulfilled by the parties, including showing the original tax payment documents owed accordingly, namely Income Tax and Fees for Acquiring Rights on Land and/or Buildings.

However, in practice, many taxpayers have difficulty in calculating and paying taxes, this also demands the readiness of tax officials to be willing to help taxpayers who find tax payment difficulties, for example having difficulty filling out tax payment forms. Taxation forms that are not so easy to understand will make it difficult for them (taxpayers) to pay taxes, because the new taxation system that implements the self-assessment system requires taxpayers to actively fill out the form. Therefore, the tax officer is expected to reduce the level of difficulty of the taxpayer by helping as well as possible to the taxpayer. Thus the sense of responsibility of taxpayers is maintained in fulfilling their obligations every time they pay taxes.

Based on the description above, the role of PPAT is very important for taxpayers who will make the Transfer of Rights for sale and purchase of land and/or buildings, so legal counseling must be carried out to taxpayers, therefore it is also necessary to know the various PPAT obstacles and find solutions so that the payment of Customs Tax Acquisition of Rights to Land and Buildings (BPHTB) can be implemented properly for the development of the Indonesian state.

2. Research Methods

2.1 Research Approach

This study uses a sociological empirical juridical approach. Approach methodis juridical empirical which in other words is a type of sociological legal research and can also be called field research, which examines the applicable legal provisions and what happens in reality in society.⁴ Or in other words, namely a research conducted on the actual situation or real conditions that occur in society with the intention of knowing and

⁴ Waluyo, Bambang. (2002), *"Penelitian Hukum Dalam Praktek"*, Jakarta : Sinar Grafika. p. 15

finding the facts and data needed, after the required data is collected then it leads to problem identification which ultimately leads to problem solving.

2.2 Research Specifications

This research is qualitative descriptive which one of the types of research included in the type of qualitative research. The purpose of this study is to reveal events or facts, circumstances, phenomena, variables and circumstances that occurred during the study by presenting what actually happened. This study interprets and describes the data related to the current situation, attitudes and views that are happening in a society⁵

Qualitative descriptive research interprets and describes the existing data along with the current situation. This study also reveals attitudes, contradictions, relationships, and views that occur within the scope of the respondent, describing the conditions as they are, without giving treatment or manipulation to the variables studied. This type of qualitative descriptive research is a type of research with the process of obtaining data as it is. This research emphasizes the meaning of the results.

2.3 Method of collecting data

Sources of data collection authors use data collection techniques as follows:

a. Primary data

In collecting primary data, several methods can be used, such as interviews with original sources, conducting observations and questionnaires. Here the authors use interview techniques in collecting data, which is done by face to face and direct questions and answers between data collectors and researchers with sources.

b. Secondary Data

In collecting secondary data in the form of theoretical data, namely by collecting data and literature related to the problems that will be discussed in writing this scientific research. Read and analyze things related to the research title. In collecting library data, the authors obtained from various sources, including the Library of the Faculty of Law, Islamic University of Sultan Agung Semarang, the Central Library of Sultan Agung Islamic University Semarang, books from experts and law graduates and other references. The author in this study uses 3 (three) legal materials as follows:

a. Primary Legal Materials, namely binding legal materials, including:

- 1) Act No 5 of 1960 Concerning Basic Agrarian Laws.
- 2) Act No 28 of 2007 Concerning Third Amendment to Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Tax Procedures.
- 3) Act No 28 of 2009 concerning Regional Taxes and Regional Levies.
- 4) Act No 21 of 1997 concerning Land and Building Rights Acquisition Fees (BPHTB).
- 5) Government regulation Number 37 of 1998 concerning the position regulations for Land Deed Making Officials (PPAT).

⁵ Unknown, "Understanding Qualitative Descriptive Research", accessed from <https://www.linguistikid.com/2016/09/pengentuk-pen-Research-descriptive-kualitative.html>, on November 13, 2020 at 10.10 WIB.

- 6) Government Regulation Number 91 of 2010 concerning Types of Regional Taxes Collected Based on the Determination of the Regional Head or Paid by Taxpayers themselves, Government Regulation.
 - 7) Act No 74 of 2011 concerning Procedures for Implementing Rights and Fulfilling Tax Obligations.
- b. Secondary Legal Materials, namely legal materials that provide an explanation of primary legal materials, including:
- 1) Books related to research themes
 - 2) Articles, journals, and papers that discuss about the role of land deed maker officials (PPAT) in collecting BPHTB taxes on land and/or building sale and purchase transactions in Jepara district.
- c. Tertiary legal materials, namely legal materials that provide additional explanation or support for existing data on primary and secondary legal materials. The tertiary legal materials used include:
- 1) Legal Dictionary
 - 2) Indonesia Dictionary
 - 3) English dictionary

2.4 Research Location

The location that becomes the object of research is the Notary Office and PPAT in the City of Jepara, making it easier for writers to collect the research data needed.

2.5 Data Analysis Methods

In conducting data analysis, qualitative analysis methods can be used. On the basis of Law Science, the data obtained is then systematically arranged and analyzed qualitatively so as to achieve clarity which is discussed as a scientific paper in the form of a thesis.

3. Results and Discussion

3.1 The Role of Land Deed Making Officials (PPAT) in collecting Fees for Acquisition of Land and Building Rights (BPHTB) for buying and selling land and/or buildings in Jepara Regency

The responsibility of a Notary as PPAT as a government partner is very heavy, because in addition to the products produced are products that have legal consequences, the Notary as PPAT is also obliged to secure the entry of state money in the legal field, namely PPh 21 (SSP) and BPHTB (SSB). This often occurs irregularities, so that it is detrimental to the state and does not rule out the notary as PPAT being involved in it. In the case of land and/or building sale and purchase transactions, caution and responsibility of the Notary as PPAT as the government's front-line partner is expected to be able to assess or interpret the price of a parcel of land, whether it is reasonable or not. It is expected that in the event of buying and selling, Land Deed Maker (PPAT), in carrying out its work as deed maker, cannot be separated from taxation, which is directly dealing with prospective taxpayers, so it is appropriate that the Officials participate in giving an appeal to the prospective taxpayer to settle

their tax obligations. In practice, Tax on Acquisition of Rights on Land and Buildings (BPHTB) is a tax that is directly related to the duties and work of a Notary as a Land Deed Making Officer (PPAT). This is related to the existence of a transaction process for the transfer of rights to land and buildings, especially in connection with the sale and purchase of land and building rights transactions.

Regional Regulations and Laws give an important role to PPAT in terms of transferring rights to land, especially for the state in terms of paying taxes which are an obligation for parties who will conduct land transfer transactions prior to the making of the transfer deed by PPAT. In terms of the role of PPAT in paying taxes, it is given the authority and responsibility to participate in supervising taxpayers to immediately make tax payments before the sale and purchase deed is made, and as a PPAT also conducts research on tax objects whose rights are transferred.

PPAT has a very important role in implementing BPHTB tax collection, among others, namely helping clients (relations) in this case the Taxpayers to immediately pay off the BPHTB taxes owed, each BPHTB Taxpayer is assisted to calculate and deposit taxes owed, apart from that PPAT is also must report the acquisition of rights over land and buildings, and deposit SSB. Proof of deposit is used as a tool to transfer the title of land and building rights.

the role of PPAT in the payment of BPHTB tax on land and/or building sale and purchase transactions based on Article 9 paragraph (1) and paragraph (3) of Samosir Regency Regional Regulation Number 9 of 2011 concerning Fees for Acquisition of Rights to Land and Buildings in conjunction with Article 91 paragraph (1) and aya (3) Act No 28 of 2009 concerning Regional Taxes and Regional Retributions, where "Land Deed/Notary and Special PPAT Authorities can only sign deeds of transfer of rights to land and/or buildings after the taxpayer submits proof of tax payment. in the form of SSPD "to PPAT. From this regulation, it is clear that PPAT cannot sign a deed of transfer of rights to land and/or building or often called a deed of sale before the taxpayer submits proof of tax payment. This is an obligation because of the delegation of authority not to take certain actions, namely by not signing the sale and purchase deed. Apart from that, a PPAT is also given the responsibility to participate in supervising BPHTB tax payments so that the parties before signing the sale and purchase certificate must first pay taxes arising from the transfer of rights to land and/or buildings.

In the case of giving information regarding the imposition of tax on a transaction in his office, a Notary Public as PPAT must be clear and transparent, so as not to cause suspicion or a difference in opinion between the two. It is better if a person who serves as a Notary as PPAT, should have high moral integrity, not be affected by any temptation to apply the provisions of the applicable rules. Because a Notary as PPAT must firmly uphold morality and resist temptation. The precautionary and carefulness factors must and must be owned by every Notary Public as PPAT so that they are able to carry out their duties properly, considering that the Notary profession as PPAT who even though as a general state official does not know the law impunity.

If we look at the provisions above, the deeds made by PPAT which are the objects of BPHTB are as follows:

1. Buy and sell;

2. Exchange;
3. Grant;
4. Separation of rights resulting in transfer;
5. Gift;

In carrying out the supervision and security of acceptance

BPHTB, the method used by PPAT is:

1. Determine when BPHTB is owed;
2. Calculating the amount of BPHTB owed;
3. Seeing the payment of outstanding BPHTB;
4. Make a Deed Making Report.

The BPHTB Law does not regulate the PPAT's obligation to examine the accuracy of BPHTB payable payments made by taxpayers, so there is potential that the BPHTB payments owed do not enter the state treasury or what is known as fictitious (fake) SSB

The self-assessment system in collecting BPHTB taxes is still not understood by the public. The community's lack of understanding in BPHTB payments is due to the fact that people tend not to understand what procedures must be done in fulfilling the BPHTB obligations. This is an opportunity for irresponsible people to seek profit by offering services in fulfilling BPHTB obligations.

In practice, based on information from the PPAT where the author conducted research, in general, taxpayers, in this case the parties who are required to pay BPHTB, often submit BPHTB payments to PPAT/Notaries. However, taxpayers often make BPHTB payments using the services of other parties (service bureaus/people who offer services for BPHTB payments such as individual service bureaus or notary employees). This latter condition often results in BPHTB payments made using the services of other parties, which are fictitious or fake payments.

3.2 Barriers that arise in implementing the collection of fees for acquisition of land and building rights (BPHTB) in Jepara Regency and their solutions

Although the BPHTB Law has been in effect since July 1, 1998 for almost 10 (ten) years, in its implementation, many people still do not know the procedures, calculations, the basis for imposition and application. Many people who will take legal actions on their property in the form of land and/or buildings, still do not understand what BPHTB is. They assume that having paid the Land and Building Tax (PBB) is sufficient for their obligations on the land and/or buildings they value.

In addition, the community also does not understand how to calculate BPHTB and the procedures for payment and repayment. As a result, transactions are hampered, because before the BPHTB is paid and the taxpayer submits proof of payment for the BPHTB, the Notary/PPAT cannot make a deed of transfer of rights. This is evidence that the principle of simplicity in implementing BPHTB has not materialized.

Facing problems like this, PPAT must provide more explanation and direction in implementing the BPHTB. Often times, the PPAT in performing its duties also functions as an extension of the Directorate General of Taxes.

PPAT in this case is forced to provide assistance to sellers and buyers in calculating the amount of tax owed, then the amount of payment and the method of payment, even

though PPAT is not given any compensation by the government for doing the work. This was stated by all PPATs where the authors conducted the research.

According to Article 24 paragraph (1) of the BPHTB Law, PPAT can only sign the deed of transferring rights to land and/or buildings when the taxpayer submits proof of tax payment in the form of SSB.

As a result, many people still do not understand and understand about BPHTB, so this is an additional activity that burdens PPAT's duties, even though it is not PPAT's duty and responsibility. PPAT's position is a weak party, on the one hand PPAT can only make transactions if BPHTB has been paid in full by the taxpayer, but on the other hand, PPAT must also serve the community so that people can understand and solve the problems they face in paying off BPHTB.

Based on article 6 paragraph (3) of the BPHTB Law, it has been stipulated that "If the Tax Object Acquisition Value is unknown or lower than the Sales Value of the Tax Object used in the imposition of Land and Building Tax in the year the acquisition occurs, unless the buyer is appointed in the auction, then the basis for imposition of taxes used is the selling value of land and building tax objects. BPHTB is called the acquisition value as previously described.

Based on the results of interviews with resource persons, the parties who come to PPAT with the intention of conducting transactions for the transfer of rights over land and/or buildings generally have agreed on the value or price of the transaction using the Selling Value of PBB Tax Object, even though the actual acquisition value of land rights and or the building is higher or lower than PBB NJOP.

If the acquisition value is higher than NJOP, it means that the state has been harmed by the difference between the acquisition value and the PBB NJOP, but if the acquisition value is lower than the PBB NJOP, the public feels that the state/government is not fair in imposing BPHTB taxes. so that the informants stated that the government should establish a fair regulation, namely to determine the NJOP of PBB as the value of the acquisition of rights to land and or buildings with certainty.

And PPAT in every transaction always provides an explanation to taxpayers (sellers and buyers) about the obligation to pay Income Tax on land and building sellers (PPH article 4 paragraph (2)) and Fees for Acquiring Rights on Land and Buildings (BPHTB). If the PPAT does not implement the provisions of Article 24 of the BPHTB Law, the PPAT will be subject to sanctions as stipulated in Article 26 of the BPHTB Law. For fairness, according to the PPAT where the author conducted the research, the PPAT should also be given an achievement or reward for its contribution in collecting tax revenue. If the PPAT does not all implement the provisions of Article 24 of the BPHTB Law simultaneously, it can be imagined how much tax revenue was lost.

In this case, the PPAT does not expect excessive rewards, but it is sufficient to provide a percentage of the amount of tax payments paid by taxpayers. By giving this reward, it is hoped that the PPAT will be motivated to supervise and secure a more intensive BPHTB payment.

4. Closing

4.1 Conclusion

1. The role of the Notary as PPAT in implementing the self-assessment system on the collection of Land Rights Acquisition Fees (BPHTB) in relation to the deed he makes is expected that the Notary as PPAT will play an active role in requiring payment of Land Rights Acquisition Fee (BPHTB) in transferring rights to land and buildings, which where after the agreement is made and the payment transaction is made, the tax must be paid as soon as possible, then the correctness is checked so that the deed can be signed immediately. Notary as PPAT is obliged to submit a list of deed drafting reports made before him, especially the deed of transfer of rights to land and buildings to the Directorate General of Taxes on the 10th of the following month.

2. In carrying out their duties the Land Deed Making Officials experience many obstacles, namely:

Low public knowledge of BPHTB. The condition of our society, which still does not understand its obligation to pay taxes properly and honestly, is a separate obstacle for PPAT in carrying out its obligation to supervise BPHTB payments. The community also has objections to paying BPHTB taxes. BPHTB payments are felt to be very high and burdensome. PPAT always faces this complaint. Even so, PPAT never gets bored of providing explanations to the public, especially the parties who carry out transactions. The transaction value agreed upon by the parties is unknown, so PPAT states that it does not know the actual value of the transaction. However, the authors still believe that PPAT should have known about it or at least be able to ask the parties what the actual transaction value was.

PPAT in providing an explanation of the deed itself also provides an explanation of the BPHTB payment obligations and how to calculate and report to the Tax Service Office. In general, the buyer submits all its management to the PPAT along with the money for BPHTB payments and reports to the Tax Service Office.

There is no reward for PPAT, this reward is very important because it is an award for PPAT and spurs PPAT to be even more intensive in supervising BPHTB payments, because PPAT should not only be given punishment/sanctions for work in supervising BPHTB.

4.2 Suggestion

Based on the above conclusions, there are several things that according to the author it can be suggested to be a material for later consideration and study material to be able to improve or reference in the process of land deed officials (PPAT) in collecting BPHTB tax on sale and purchase transactions of land and or buildings in Jepara Regency. The suggestions that the authors give include the following:

1. The author suggests that PPAT be able to supervise BPHTB tax payments, in terms of Land and Building Taxes, especially BPHTB taxes, and it is hoped that the Notary as one of the tax apparatus working partners who is also one of the state officials can help play an active role in enforcing tax law, so as to achieve legal certainty in the field of taxation.

2. PPAT in Jepara Regency should be able to increase its role in providing good explanations to its clients because there are still many taxpayers who do not understand the payment of Taxes for Acquisition of Land and Building Rights on land and/or building sale and purchase transactions in Jepara Regency by not signing the Sale and Purchase Deed if the parties do not pay taxes properly.

5. References

Books:

- [1] Soemitro, Rochman. (1997). *“Dasar-dasar Hukum Pajak dan Pajak Pendapatan”*, Jakarta : PT. Eresco.
- [2] Siahaan, Marihot Paha. (2005). *“Bea Perolehan Hak Atas Tanah Dan Bangunan Teori Dan Praktek*, Ed. I ,Print. I” , Jakarta : Raja Grafindo Persada.
- [3] Waluyo, Bambang.(2002), *“Penelitian Hukum Dalam Praktek”*, Jakarta : Sinar Grafika.

Internet:

Unknown, "Understanding Qualitative Descriptive Research", accessed from <https://www.linguistikid.com/2016/09/pengentuk-pen-research-descriptive-kualitative.html>, on November 13, 2020 at 10.10 WIB.

Regulation:

- [1] Act No 5 of 1960 Concerning Basic Agrarian Laws.
- [2] Act No 28 of 2007 Concerning Third Amendment to Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Tax Procedures.
- [3] Act No 28 of 2009 concerning Regional Taxes and Regional Levies.
- [4] Act No 21 of 1997 concerning Land and Building Rights Acquisition Fees (BPHTB).
- [5] Government regulation Number 37 of 1998 concerning the position regulations for Land Deed Making Officials (PPAT).

- [6] Government Regulation Number 91 of 2010 concerning Types of Regional Taxes Collected Based on the Determination of the Regional Head or Paid by Taxpayers themselves, Government Regulation.
- [7] Act No 74 of 2011 Concerning Procedures for Implementing Rights and Fulfilling Tax Obligations.