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Legal Policy on the Implementation of Non-Tax State Revenue on a Plot of Land and Buildings Based on Just Value

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Abstract. Act. No. 9 of 2018 article 1 concerning General Provisions for Non-Tax State Revenue become the land assessment that has been carried out by BPN RI and then presented in the ZNT map is currently still unable to fulfill the wishes of many parties. The ZNT map produced by BPN RI, which is used as a basis for providing information on land values, is still not in accordance with the actual value or market value. The purpose of writing is to analyze the juridical analysis of the Notary Position Law regulations regarding Notary's honorarium and provide input on solutions. The approach method in this research uses sociological juridical. Data collection was carried out through library research studies. Processing of this research data with secondary data is divided into primary, secondary and tertiary legal materials. The results of this research are researchers provide conclusions and suggestions that needs more in-depth study by the government (State) in the future in revising Legal policy for receiving PNBP on plots of land and buildings, if necessary, study it first Article 1 Law Number 9 of 2018 concerning PNBP, Apart from that, there are also implementing regulations, namely Regional Regulations issued by the Regent who is given authority by the central government to regulate their respective regions, so that Use of market price and land value zone as determining variables.

Keywords: Central; Determining; Variables.

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1. Introduction

In particular, the homework for the Land Potential Survey Directorate of BPN RI which has not yet been fully completed is the incomplete mapping of land value zones (ZNT) in this region of the country. In fact, this land value zone map is very important, considering that based on the ZNT map, interested parties can request information regarding the land value of the object in question. In accordance with Government Regulation Number 13 of 2010 concerning Non-Tax State Revenue (PNBP) for BPN RI, ZNT is used as a basis for determining several rates, including registration for extension and renewal of rights, registration rates for transfer of rights (buying and selling, grants, exchange, and so on), as well as rates in granting rights. Therefore, ideally, the information provided by BPN RI referring to the ZNT map is objective and accurate land value information. It is not true if the information contains value elements that are over-assessed or under-assessed, because if this happens it is very possible that society or even the country will be harmed.

In reality, the land assessment that has been carried out by BPN RI and then presented in the ZNT map is currently still unable to fulfill the wishes of many parties. The ZNT map produced by BPN RI, which is used as a basis for providing information on land values, is still not in accordance with the actual value or market value. deviations from the use of market prices, as well as land value zones as determining variables and there is a conflict of authority between DISPENDA and ATR/BPN in determining the value of land for tax payments which will be used as the basis for BPHTB calculations, as well as discrepancies in practice with those in the regulations A law that has certainty, permanent legal force, where DISPENDA still claims to use law number 28 of 2009 as a guideline for receiving regional taxes and regional levies. Apart from that, there are also implementing regulations, namely Regional Regulations issued by the Regent who is given authority by the central government to regulate their respective regions but still use their assessment using market value as the BPHTB calculation, but in practice there is the emergence of market value and other interpretations.

The aim of this research is to describe and analyze the causes of the Land Value Zone being used as one of the land price assessment variables to determine BPHTB as well as analyzing and solving practical problems regarding the legal force and validity of the Land Value Zone which is used as the basis for land price assessment. That's why the researcher wants to propose the title "Legal Policy for the Implementation of Non-Tax State Revenues on Plots of Land and Buildings Based on Justice Values".

Talking about theory, 3 (three) theories will be referred to to analyze this research, namely:

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a. Basic Theory (Grand Theory): Stufenbau theory. According to Hans Kelsen, norms are layered in a hierarchical structure.² In other words, the legal norms below apply and originate and are based on higher norms, and higher norms also originate and are based on even higher norms and so on until they stop at the highest norm which is called the Basic Norm (Grundnorm) and still according to Hans Kelsen, it is included in a dynamic norm system. Therefore, law is always formed and abolished by the institutions whose authorities have the authority to form it, based on higher norms, so that lower (inferior) norms can be formed based on higher (superior) norms, in the end the law becomes hierarchical. -levels and layers form a hierarchy.

b. Middle Theory: Theory Welfare State. Then the term welfare state or welfare state. The originator of the welfare state theory, Mr. R. Kranenburg,³ states that the state must actively seek prosperity, acting fairly which can be felt by the whole community evenly and in balance, not for the welfare of certain groups but the whole people. In contrast to Kranenburg's opinion, Logemann said that the state is essentially an organization of power that includes or unites human groups which are then called nations. So first of all, the state is an organization of power, so this organization has an authority, or gezag, which means it can impose its will on everyone covered by the organization.

c. Applied Theory: Cybernetic Theory. This theory is the teachings of Jeremy Bentham⁵ The essential points of his teachings will be presented: i. The aim of law and the form of justice according to Jeremy Bentham is to realize the greatest happiness of the greatest number (the greatest happiness for the greatest number of people).

ii. According to Bentham, the purpose of establishing legislation (especially the legal policy for PNBP acceptance in this research) is to produce happiness for society. So legislation (especially legal policy on PNBP revenue) must strive to achieve four objectives, namely:

1) To provide substance (to provide living expenses).

2) To provide security (to provide protection).

3) To attain equity (to achieve equality).

iii. According to Bentham, there are two (2) types of study in legal science (jurisprudential study), namely:

1) Expository Jurisprudence

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This expository legal science is nothing more than the study of law as it is. The object of this study is to find the basics of legal principles through analyzing the legal system.

2) Censorial Jurisprudence

This sensorial legal science is a critical study of law (also known as deontology) to increase the effectiveness of law in its operation).

III. Gap Analysis and Problems

The legal policy for receiving PNPB on plots of land and buildings is not yet based on the value of justice. APH's weakness in exploring the value of justice is only based on subjective normative reasons, this rule needs to be reconstructed. The land assessment that has been carried out by BPN RI and then presented in the ZNT map is currently still unable to fulfill the wishes of many parties. The ZNT map produced by BPN RI, which is used as a basis for providing information on land values, still does not correspond to the actual value or market value. the use of market prices, as well as land value zones as determining variables and there is a conflict of authority between DISPENDA and ATR/BPN in determining the land value for tax payments which will be used as the basis for BPHTB calculations, as well as inconsistencies in practice with those in the Law regulations which has certainty, permanent legal force, where DISPENDA still claims to use law number 28 of 2009 as a guideline for the receipt of regional taxes and regional levies. Apart from that, there are also implementing regulations, namely Regional Regulations issued by the Regent who is given the authority by the central government to regulate the region. each of them still uses their assessment using market value as the BPHTB calculation, but in practice there is the emergence of market value and other interpretations.⁶

IV. State of Art

The politics of notarial law can be said to have achieved prosperity, namely if the legal product of notarial rules, in its core rules are based on the UUJN, both the content and the purpose of the rules formed to achieve (*ius constitutum*) must produce the goal of prosperous rules according to Islam, especially QS Quraish. The current situation does not yet reflect these welfare indicators because the restrictions on the Notary's movement space as explained in the background above have resulted in the Notary still feeling afraid of not being able to meet the living needs of his family, especially in the regulations limiting the Notary's honorarium and the scope of the Notary's work. limited to only one province.

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2. Research Methods

The approach method in this research uses a type of sociological juridical research, namely legal research using a juridical-sociological approach method, namely an approach based on binding norms or regulations, so it is hoped that from this approach it can be seen how the law is empirically a symptom of society. can be studied as a causal variable that produces effects on various aspects of social life.⁷ This type of sociological juridical research uses primary data, where the primary data is obtained. In this case it is describing the juridical analysis of the legal policy for PNBP acceptance on plots of land and buildings. Sociological research uses a type of primary data collection, namely data obtained directly from sources so that it is still raw data.⁸ Secondary data itself can be divided into primary, secondary and tertiary legal materials.⁹ To complete the primary data, it was obtained through direct interviews with respondents or sources related to this research, including BPN officials and employees (Klaten Regency INI Regional Administrator, Klaten Regency Notaries, and related private institutions). The use of the observation method is expected to provide a general orientation about the location and focus of the research, and in addition, through this method it is also hoped that an overview of the situation, phenomena, events and land registration behavior can be obtained which is able to provide an overview of the research focus to be studied. The data analysis method used to describe an process the data collected in this research is qualitative description. descriptions are used in the method of describing data in this research because the main data used is not in the form of numbers that can be measured.¹⁰

3. Results and Discussion

Article 1 of Law Number 9 of 2018 concerning PNBP, Non-Tax State Revenue, hereinafter abbreviated to PNBP, is a levy paid by individuals or entities by obtaining direct or indirect benefits from services or utilization of resources and rights obtained by the state, based on regulations legislation, which constitutes Central Government revenue outside of taxation and grant revenues and is managed in the state revenue and expenditure budget mechanism.

The PNBP objects consist of: (1) Utilization of Natural Resources in the form of utilization of earth, water, air, space and the natural wealth contained therein which is controlled by the state. (2) Services are all forms of provision of goods, services or administrative services which are the responsibility of the Government, both in meeting community needs and implementing the provisions of laws and regulations. (3) Management of Separated State Assets is the management of state assets originating from the state revenue and expenditure budget which is used as participation in state capital or other legitimate acquisitions. (4) Management of

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State Property is the activity of using, exploiting and transferring all goods purchased or obtained at the expense of the state revenue and expenditure budget or originating from other legitimate acquisitions. (5) Fund Management is the management of government funds originating from the state revenue and expenditure budget or other legitimate acquisitions for certain purposes. (6) Other State Rights are state rights other than the Utilization of Natural Resources, Services, Management of Separate State Assets, Management of State Property, Fund management, and which are regulated in accordance with the provisions of statutory regulations. Determination of tariffs for types of Non-Tax State Revenue, namely taking into account the impact of imposition on the community and its business activities, must take into account the aspect of fairness in the imposition of burdens on the community. Tariffs for types of Non-Tax State Revenue are determined in Laws or Government Regulations. PNPB collected by Government Agencies in accordance with statutory regulations is then deposited into the state treasury and must be reported in writing by the Work Unit to the Minister of Finance (DJKN) in the form of a PNPB Realization report.

First If it is to be analyzed using theoretical studies in this journal it clearly means that The National Land Agency of the Republic of Indonesia (BPN RI) in carrying out the mandate as intended in Article 2 of Presidential Regulation Number 10 of 2006 concerning the National Land Agency essentially carries out the function of formulating and determining land policy. One of the land policies in accordance with these regulations is the policy in determining and providing information regarding land value. In this case, according to the duties and functions outlined in the BPN RI organizational structure, they are carried out by the Directorate of Land Potential Surveys.

Then secondly, the aim of having a land zone map is not simply that it can be applied in all regions and can solve problems in the land sector. This happens because there are two different policies that cannot be combined into one whole. As one example obtained by the author in the region, there is a plot of land with a land area of 180 m² and a building area of 100 m² located in the Klaten area which will be sold to the buyer with a transaction value of IDR 300,000,000, (three hundred million rupiah) and the acquisition value of the tax object that has been assessed

by the assessment team is IDR 570,000,000,-, (five hundred and seventy million rupiah) the buyer as a taxpayer has filled out the Regional Tax Payment Letter (or what can be called SSPD) after filling in the SSPD, and submitted research then the BPHTB SSPD verification research action was carried out, after it was carried out verified by the Klaten Regional Revenue Service officer, a notification letter for the BPHTB calculation was issued with the name Fair Tax Object

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Market Value, which in the letter contains the total amount of tax that must be paid by the taxpayer for the land area of 180 m2 and the building area of 100 m2, namely the original price.

transaction IDR 300,000,000,- (three hundred million rupiah) becomes IDR 570,000,000,- (five hundred and seventy million rupiah) for tax calculations, the difference is very large, namely IDR 270,000,000,-, (two hundred and seven tens of millions of rupiah) this is what makes people confused about what is the basis for the assessment of the Regional Revenue Service (or what is called DISPENDA).

In reality, people already use calculations in accordance with law number 28 of 2009, namely using transaction prices. From the case above, apart from the imposition of the BPHTB tax which is considered burdensome and illogical for some groups of people from the lower middle class, it also raises doubts about what is the legal basis for DISPENDA's assessment. Government agencies/institutions also issue regulations and several new policies are created in this case regarding land value zones. In accordance with the results of the "External Group Discussion Forum event, Discussion on Fundamental Improvements to Making Updates and Utilizing Land Value Information" which was held online by the Ministry of ATR/BPN on 01- 07- 2021", in the discussion it was stated that recently the community have not yet received certainty about which transaction value should be used as a benchmark for paying taxes, because there is a term for verification with market value which is carried out at DISPENDA, then there is PNBP which is known at BPN using Zones, apart from that there is also using PBB NJOP, so that with this zone it is assessed "Suyus Windayana (Director General of Land Rights Determination and Registration) explained that ZNT is part of transparency in carrying out buying and selling transactions, starting from how much is paid to the Land Deed Making Officer (PPAT), how much is paid to the regional government to the central government.¹⁴

Third, if the rules for the amount of Notary's honorarium are to be analyzed using cybernetic theory, this will fail to meet the two requirements, namely goal, meaning that an article in the UUJN regulations must have a clear objective. This clear aim is the same as the aim of the Politics of Notarial Law as it is the same as the aim of implementing laws in the State of Indonesia, one of which is to achieve "advancing general welfare". This journal actually sees the opposite, with its analysis of the utilitarianism theory explained above, it is clear that it does not provide District, North Jakarta Municipality), Journal of Development Economics.

usefulness/advantages with the existence of restrictions on regulations regarding the amount of honorariums for Indonesian Notaries because with Verbal reasons which state that there is a regulation regarding limiting the honorarium rates of Indonesian Notaries under the pretext

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of maintaining the dignity of State officials as Notaries include reasons that are nonsense (made up) and have no benefit at all but will cause jealousy of Indonesian Notaries towards Advocates (Lawyer at Law) Indonesia and Indonesian Doctor, so it is not appropriate to fulfill the elements of the theory of utilitarianism which assumes that something exists and is created to provide the greatest benefit to society. So if this happens, the Article rules are formed without a clear purpose, so they will not provide benefits for Notaries in Indonesia.

4. Conclusion

It needs more in-depth study by the government (State) in the future in revising Legal policy for receiving PNBP on plots of land and buildings, if necessary, study it first Article 1 Law Number 9 of 2018 concerning PNBP, Law number 28 of 2009 as a guideline for the receipt of regional taxes and regional levies. Apart from that, there are also implementing regulations, namely Regional Regulations issued by the Regent who is given authority by the central government to regulate their respective regions, so thatThe use of market prices and land value zones as determining variables and there is no inequality of authority between DISPENDA and ATR/BPN in determining the land value for tax payments which will be used as the basis for BPHTB calculations.

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