



LAW ENFORCEMENT FOR UNPAYMENT LAND AND BUILDING TITLE TRANSFER DUTY TAX IN JAKARTA CITY

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Abstract- This study examine the concept of law enforcement for taxpayers who deviate from their tax payments. This study uses a normative legal research approach by examining legal rules, legal principles, and legal doctrine to address existing legal problems. Currently in Indonesia, especially in the city of Jakarta, the legal basis for land and building title transfer duty tax is Act Number 28 of 2009 concerning Regional Taxes and Regional Retributions. The results show that in Act Number 28 of 2009 concerning Regional Taxes and Regional Retributions there is no obligation for parties who buy land and / or buildings to validate the payment of fees for the acquisition of rights to land and / or buildings. The absence of legal norms is also contained in Act Number 28 of 2009 concerning Regional Taxes and Regional Charges related to irregularities that are common to taxpayers who purchase land and / or buildings in Jakarta City.

Keywords: land and building title transfer duty tax, law enforcement, unpaid tax.

INTRODUCTION

In the past, there was a tax collection called Transfer of Name Fee which was regulated in the Staatsblad 1924 Transfer of Name Fee Ordinance Number 291. This transfer fee was levied on any agreement for the transfer of rights to permanent property in the territory of Indonesia, including transfer of assets due to a will be left behind. by people who last resided in Indonesia.

What is meant by fixed assets in the Ordinance are fixed assets and property rights over land, the transfer of which is carried out by making a deed according to the method regulated in the Law, namely the Staatsblad 1834 Transfer of Name Ordinance Number 27.

The rate stipulated according to Act Number 28 of 2009 is 5% (five percent) of the acquisition value of taxable tax objects. All levies on the acquisition of rights to land and or buildings outside the provisions of this Law are prohibited. The imposition of fees for the acquisition of rights to land and buildings must pay attention to the principles of justice, legal certainty, legality and simplicity and be supported by a tax administration system that makes it easier for taxpayers to fulfill their tax obligations¹.

Before 2009, taxes were collected by the central government based on Act Number 21 of 1997 concerning land and building title transfer duty tax, The principles adopted in this Law are: the fulfillment of the obligation to acquire the right to land and buildings is based on a self-assessment system, namely the taxpayer calculates and pays his own tax debt; the rate is set at 5% (five percent) of the acquisition value of the taxable tax objects, in order for the implementation of this law to take effect effectively, both taxpayers and public officials who violate the provisions or do not carry out their obligations as determined by this law, will be subject to sanctions according to the prevailing laws and regulations, the proceeds from the tax on the acquisition of the right to land and buildings constitute state revenue which is largely handed over to the regional government, to increase regional revenues to finance the administration of regional government and in the framework of strengthening regional autonomy.² All levies on the acquisition of rights to land and or buildings outside the provisions of this law are prohibited.

In 2009, taxes were collected by the local government based on Act Number 28 of 2009 concerning Regional Taxes and Regional Charges, the granting of greater authority to regions in administering governance and services to the community should also be followed by granting greater authority in taxation and levies.

Research Questions and Objectives

The research questions of this study are formulated as follows:

¹Brotodiharjo, R. S. *Pengantar Ilmu Hukum Pajak*, Cet. 3, (Bandung: PT Eresco Bandung, 1987), 5.

²Wirawan B. Ilyas & Richard Burton, *Hukum Pajak*, Edisi Revisi, (Jakarta: Salemba Empat, 2004), 10.

1. What are the weaknesses in Act Number 28 of 2009 that cause taxpayers not to pay tax on acquisition of land and buildings?
2. How to enforce the law against taxpayers who not to pay tax on acquisition of land and buildings?

Contribution of Research

Theoretically, the results of this study are expected to contribute knowledge in the field of law, particularly the tax law related to the role of law enforcement. Practically, the study is expected to provide input to the relevant agencies such as the Tax Court, Ministry Of Finance Indonesia and Local Government of Jakarta.

RESEARCH METHOD

This study is a normative legal research which has a different method from other kinds of research. Normative legal research is a systematic way of conducting research in the form of a product of legal behavior, for example examining legislation.³ The main point of the study is that law is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior, so that normative legal research focuses on written regulations in the form literature, legislation, norms and regulations, or principles related to the subject matter. To answer the problem and achieve the objectives of this study, the researcher uses a type of normative research by looking at the law in its normative context. Studies in normative law focus more on library research. The approach used in this study is a process of finding legal rules, legal principles, and legal doctrines to answer the legal problems faced. This is in accordance with the perspective of legal character.⁴

RESEARCH RESULTS AND DISCUSSION

The land and building title transfer duty tax statutory regulations as a means of legal reform, it is necessary to first describe social change, because the land and building title transfer duty tax legal arrangement is a social change which includes legal changes. Social change is a social process that is dynamic in nature and can occur in various aspects of life in society, including aspects of politics, economy, social, culture and defense. If it is linked to land and building title transfer duty tax, reforming tax laws and regulations is a process that occurs in modern society relating to these aspects, especially economic and legal aspects. The changes that occur in society are a normal phenomenon, because no society has stopped at a certain point in its development throughout the ages⁵.

A change that occurs in society today greatly affects the lives of other communities, especially with the existence of modern communication which allows a relationship between one community and another, even though they are located far apart. In general, changes that occur in a society are caused by certain social problems faced, so that the changes made are expected to overcome these problems.

Social problems in this regard are related to the legal aspects of taxation. Social change is all changes that occur in social institutions in a society, which affect the social system, including the values, attitudes and patterns of behavior among groups in society. Based on the above definition, it can be said that social change occurs in social institutions as a set of rules of all levels that revolve around basic human needs and can affect other aspects of the structure of society. The channels through which a social change process passes are generally social institutions "in the fields of government, economy, education, religion, and others". Thus, it can be said that the regulation regarding land and building title transfer duty tax is one of the changes that have occurred in social institutions in the economic sector.

In implementing the collection of fees for acquisition of land and building rights, it does not always run properly and correctly in accordance with the applicable provisions. In implementing the collection of fees for the acquisition of rights to land and buildings, there are also several obstacles faced⁶.

Constraints related to taxpayers are more due to the taxpayers' ignorance of the applicable legal rules, especially in the field of taxes so that taxpayers automatically experience obstacles / difficulties in calculating the fees for acquisition of land and building rights that they must pay for the transfer. In addition, the self-assessment system of land and building acquisition fees, where taxpayers are given the authority to calculate and pay their own fees for the acquisition of land and building rights that must be paid. With this lack of knowledge, taxpayers will certainly have difficulty taking care of this by themselves.

³Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2005). 32.

⁴*Ibid*, p. 35.

⁵Erly Suandi, *Hukum Pajak*, (Jakarta : Salemba Empat, 2002), 21.

⁶Penjelasan Umum Undang – Undang Nomor 21 Tahun 1997 tentang Bea Perolehan Hak Atas Tanah dan Bangunan.

In addition to the above constraints, based on the research conducted by the author both in the field and in the existing laws and regulations regarding the acquisition fee for land and building rights, in this case concerning the land and building title transfer duty tax.⁷Redemption due to the sale and purchase of land and or buildings, there is a situation that causing the land and building title transfer duty tax repayment process to be carried out without going through the payment process, even the party purchasing land and buildings can carry out the process of transferring the land certificate.⁸

Identification of payment irregularities in the payment of Land and or Building Acquisition Fee is carried out from the stage of determining the payable tax, the stage of calculating the amount of land and building title transfer duty tax to be paid, and the stages of payment and payment of land and building title transfer duty tax. There are several opportunities for deviations to be made by taxpayers, Notaries / PPAT, among others:

- a. Falsification of Deposit Certificate for Acquisition of Rights on Land and / or Buildings.
- b. Falsification of proof of bank transfer of of land and building title transfer duty taxpayments.
- c. Gratuities to tax officers so that of land and building title transfer duty tax payments can be made without paying BPHTB.

CLOSING

Conclusion

1. The main cause of irregularities in land and building title transfer duty taxpayments in the DKI Jakarta area based on Act Number 28 of 2009 concerning Regional Taxes and Regional Retributions is the absence of legalization obligations. Land and building title transfer duty tax payment as regulated in the Law. The absence of an obligation to ratify land and building title transfer duty taxpayments implies that there are no administrative or criminal sanctions in Act Number 28 of 2009 concerning Regional Taxes and Regional Charges.

2. Law enforcement on irregularities in land and building title transfer duty tax payments is carried out by establishing several legal norms to require the land and building title transfer duty tax payment process for Limited Liability Company taxpayers who are buying and selling land and or buildings. Legal norms containing payment payment obligations need to be accompanied by administrative and criminal sanctions provisions.

Suggestions

Require amendments in Act Number 28 of 2009 concerning Regional Taxes and Regional Charges shall be revise by adding an Article regarding the obligation to ratify land and building title transfer duty tax payments into a written legal norm in the Law and contains the imposition of administrative sanctions and criminal sanctions.

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⁷PenjelasanUmumUndang – UndangNomor 28Tahun 2009 tentangPajak Daerah danRetribusi Daerah.

⁸IndraIsmawan, *MemahamiReformasiPerpajakan*, (Jakarta: PT. Elex Media Komputindo, Kelompok Gramedia Jakarta, 2000), 19.