

JURIDICAL ANALYSIS OF DETERMINATION OF NJOP (SALES VALUE OF TAXABLE OBJECT) FOR DETERMINATION OF ACQUISITION DUTY OF RIGHT ON LAND AND BUILDING TO INCREASE STATE INCOME (RESEARCH STUDY AT YONDRI DARTO NOTARY AND PPAT OFFICES IN BATAM)

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ABSTRACT

The sale and purchase transaction of land and/or buildings is one of the economic activities that creates an obligation to pay taxes, namely Income Tax and Acquisition of Duty of Rights on Land and Building. The formulation of this thesis research is how the legal arrangements, implementation, and what factors become obstacles as well as solutions to the determination of Tax Object Sales Value for determining the Acquisition of Duty of Rights on Land and Building to increase state revenue. This thesis research approach method uses a normative and sociological juridical approach. The result of this thesis research is the collection of the Acquisition of Duty of Rights on Land and Building using a self assessment system. The self assessment system means that taxpayers are given the trust to be able to calculate, pay, and self report the taxes owed.

Keyword : acquisition, duty, right, land and building.

INTRODUCTION

Soil has an important role and resource for human life. Land is used by humans as a place to live and work. At least the function and role of land in various sectors of human life has three very strategic aspects, namely economic, political, and legal aspects (Idham, 2011: 1). As human life develops, the need for land increases. This can be seen from the number of land and/or building buying and selling transactions in Batam City.

Buying and selling is the exchange of something for something (Nizaruddin, 2013: 5). Buying and selling there are two sides of civil law, namely material law and contract law. Based on material law, buying and selling gives birth to rights for both parties to bills which are the delivery of goods to one party and payment of the selling price to the other party. Based on the law of engagement, buying and selling is a form of agreement that gives birth to obligations in the form of delivery of the objects sold and delivery of money from the buyer.

There are two important aspects of buying and selling in civil law, namely selling activities and buying activities. Selling activity is an activity that aims to reduce the amount of one's assets and a form of obligation, achievement or debt that must be fulfilled. Buying activity is an activity that gives birth to a form or right which is an intangible object that moves.

The sale and purchase transaction of land and/or buildings is one of the economic activities that creates an obligation to pay taxes, namely Income Tax (PPh) on income from the transfer of rights to land and/or buildings and

the Acquisition of Duty of Rights on Land and Building (BPHTB). The sale and purchase transaction of land and/or buildings is also an activity carried out by the community that can provide income in the form of taxes in a relatively large amount for the state as one of the major sources of state revenue. Everyone, both individuals and legal entities, must pay their own Income Tax (PPH) owed, before the deed is made by the Land Deed Official (PPAT), except for the transfer of rights to the government for the implementation of development for the public interest, Income Tax (PPH) will be collected and paid by the state treasurer or authorized government official (Mustofa, 2010: 20).

The Acquisition of Duty of Rights on Land and Building (BPHTB) is a tax paid by the buyer before the Sale and Purchase Deed is executed. Acquisition of Duty of Rights on Land and Building (BPHTB) is a tax imposed on the acquisition of rights to land and/or buildings (Diana and Setiawati, 2010: 149). The Acquisition of Duty of Rights on Land and Building (BPHTB) tariff is set at 5% (five percent).

The Acquisition of Duty of Rights on Land and Building (BPHTB) is regulated in the Law of the Republic of Indonesia Number: 20 of 2000 concerning Amendments to Law Number: 21 of 1997 concerning the Acquisition of Duty of Rights on Land and Building (State Gazette of the Republic of Indonesia of 2000 Number: 130 and Supplementary Gazette Number: 3988); Law of the Republic of Indonesia Number: 28 of 2009 concerning Regional Taxes and Regional Levies (State Gazette of the Republic of Indonesia of 2009 Number: 130 and Supplement to the State Gazette Number: 3988); and Batam City Regulation Number: 1 of 2011 concerning the Acquisition of Duty of Rights on Land and Building (State Gazette of the Republic of Indonesia of 2011 Number: 1 and Supplement to the State Gazette Number: 71).

The Acquisition of Duty of Rights on Land and Building (BPHTB) is a local tax or local revenue. The regional original income is received by the regional government which is used to finance the needs and administration of its own regional government, in order to create the welfare of its people. Since the Acquisition of Duty of Rights on Land and Building (BPHTB) has become a local tax, various problems have arisen, namely due to the determination of the NJOP (Sales Value of Taxable Object) for the determination of the Acquisition of Duty of Rights on Land and Building (BPHTB) which differs between regions. with other areas.

One of the differences in determining the value of land used as the basis for calculating taxes in buying and selling transactions is due to differences in regulations in each agency regarding the procedure for determining land values. Furthermore, the difference in land value that occurs will have an impact on an imbalance of central and regional income, which allows for potential loss of income at both the central and regional levels. Based on the above background, the authors are interested in conducting a research entitled "**JURIDICAL ANALYSIS OF DETERMINATION OF NJOP (SALES VALUE OF TAXABLE OBJECT) FOR DETERMINATION OF ACQUISITION DUTY OF RIGHT ON LAND AND BUILDING TO INCREASE STATE INCOME (RESEARCH STUDY AT NOT YANDRI AND DIRECTLY). PPAT OFFICES IN BATAM**".

FORMULATION OF THE PROBLEM

1. What is the legal arrangement for determination of NJOP (Sales Value of Taxable Object) for determination of Acquisition Duty of Right on Land and Building to increase state income (Research Study at Yondri Darto Notary and PPAT Offices in Batam)?.
2. How is the implementation of determination of NJOP (Sales Value of Taxable Object) for determination of Acquisition Duty of Right on Land and Building to increase state income (Research Study at Yondri Darto Notary and PPAT Offices in Batam)?
3. What factors are the obstacles as well as solutions to the of determination of NJOP (Sales Value of Taxable Object) for determination of Acquisition Duty of Right on Land and Building to increase state income (Research Study at Yondri Darto Notary and PPAT Offices in Batam)?

THEORETICAL FRAMEWORK

The author in analyzing the problems raised in this thesis research also uses legal theory as a reference in conducting the analysis. In this case we use scientific theories as our tools in solving problems.

According to Kerlinger, defines theory as a set of constructs (concepts), definitions, and propositions that express a systematic view of symptoms by describing the relationships between variables, to explain and predict these phenomena. According to Jonathan H. Turner, defines theory as a process of developing ideas that help us explain how and why an event occurs.

Theory is useful as a starting point or basis for thinking in solving or highlighting problems. The function of the theory itself is to explain, predict, predict, and find the linkage of existing facts systematically.

Theoretical frameworks are concepts that are actually abstractions of the results of thought or frameworks and references which basically aim to conclude on the dimensions. Every research is always accompanied by theoretical

thoughts, in this case because of the close reciprocal relationship between theory and the activities of collecting, processing, analyzing, and constructing.

The theoretical framework is a very important part, which is intended to provide an overview or limitations of the theories that will be used as the basis for research to be carried out. In compiling a research with a quantitative approach method, it is necessary to order theories that will be used systematically starting from Grand Theory, Middle Theory, and Applied Theory.

1. Grand Theory

Grand theories in general are macro theories that underlie the various theories below. It is called a grand theory because it is the basis for the birth of other theories at various levels. Grand Theory is also called macro because these theories are at the macro level, talking about structure and not talking about micro phenomena.

The Grand Theory in this thesis uses the positive legal theory proposed by John Austin. The leading legal positivism thinker is John Austin (1790-1859), he is known as the father of English jurisprudence. John Austin defines law as follows: "Law is a command set, either directly or circuitously, by a sovereign individual or body, to a member of some independent political society in which his authority is supreme." Legal keywords according to John Austin are orders which are interpreted as general orders from political entities that have sovereignty, namely the supreme political authority, which functions to regulate the behavior of community members. Positive law must fulfill 4 (four) legal elements, namely the existence of orders, sanctions, obligations and sovereignty. Provisions that do not meet these 4 (four) elements cannot be said to be positive law.

2. Middle Theory

Middle theory is where the theory is at the mezzo level or middle level which focuses on macro and micro studies. Middle Theory in this thesis uses the legal system theory proposed by Lawrence M. Friedman. According to Lawrence Milton Friedman, that the legal system must include legal substance, legal structure, and legal culture.

Lawrence M. Friedman argues that the effectiveness and success of law enforcement depends on the three elements of the legal system. The legal structure concerns law enforcement officers, legal substance includes statutory instruments and legal culture is a living law adopted in a society. According to Lawrence Milton Friedman, the three components in the legal system are further elaborated by Achmad Ali, namely:

- 1) The legal structure, namely the entire existing legal institutions and their apparatus, including among others the Police and their Police, the Prosecutor's Office and its Prosecutors, the Courts and their Judges, and others.
- 2) Legal substance, namely the entire rule of law, legal norms, and legal principles, both written and unwritten, including court decisions.
- 3) Legal culture, namely opinions, beliefs, beliefs, habits, ways of thinking, and ways of acting, both from law enforcers and from citizens, about the law and various phenomena related to the law.

3. Applied Theory

Applied theory is a theory that is at the micro level and is ready to be applied in conceptualization. The applied theory in this thesis uses the structural functional theory proposed by Talcott Parsons. Talcott Parsons is a sociologist born in 1902 in Colorado.

The basic assumption of the theory of structural functionalism, one of the notions or perspectives in sociology that views society as a system consisting of parts.

SPECIFICATIONS AND RESEARCH METHODS

In this section, the author will further explain one of the most important and fundamental substances, which is related to research methods (Idham, 2014: 10). The specification of this thesis research is to answer the problems in this thesis research, the author will conduct research on the majority of legal products related to the determination of NJOP (Sales Value of Taxable Object) for determination of Acquisition Duty of Right on Land and Building (BPHTB) to increase state income.

In this study, the author will use the types of legal research in the form of normative juridical law research and sociological or empirical legal research. Specifically, according to the type, nature, and purpose of Soerjono Soekanto's specification of legal research, it is divided into normative legal research and empirical or sociological legal research (Soekanto, 1996: 6).

Based on this explanation, and taking into account several variables and problem formulations in this thesis, the specification of this thesis research is normative legal research, which is supported by sociological or empirical legal research.

The approach method is an explanation of what methods will be applied by the author in the research to be carried out, namely the normative juridical approach and the sociological juridical approach. The normative juridical approach method is an approach that is based on the main legal material by examining theories, concepts, legal principles, articles and laws and regulations related to research that is related to its application in practice. The sociological juridical approach method is a legal research carried out by researching and examining existing facts, with field observations and then reviewed based on laws and regulations related to references to solve problems (Soekanto and Mamudji, 1985: 1).

DISCUSSION

Customs for the Acquisition of Duty of Rights on Land and Building (BPHTB) are taxes imposed on the acquisition of rights to land and/or buildings, namely legal actions or events that result in the acquisition of rights to land and/or buildings by individuals or entities (Mardiasmo, 2000: 414). Acquisition Duty of Right on Land and Building (BPHTB) is a fee imposed on every transfer of rights including testamentary grants on fixed assets and material rights on land whose transfer of rights is carried out by deed (Eddy Supriyanto, 2011: 110). Factors that become obstacles/obstacles as well as solutions to the determination of NJOP (Sales Value of Taxable Object) for the determination of Customs on Acquisition Duty of Right on Land and Building (BPHTB) to increase state income (research study at the Yondri Darto Notary Office and PPAT in Batam), are as follows :

1. NJOP (Sales Value of Taxable Object) Reported by the Taxpayer is Not In Accordance with the Real Reality in the Field

The taxpayer in question is the tax subject of Acquisition Duty of Right on Land and Building (BPHTB). The tax subject of the Acquisition Duty of Right on Land and Building (BPHTB) is an individual or legal entity that acquires land and/or building rights. As regulated in Article 6 paragraph 1 of the Law of the Republic of Indonesia Number: 20 of 2000 concerning Amendments to Law Number: 21 of 1997 concerning Customs on Acquisition of Land and Building Rights (State Gazette of the Republic of Indonesia of 2000 Number: 130 and an additional Sheet Number: 3988) and Article 4 paragraph 1 of Batam City Regional Regulation Number: 1 of 2011 concerning Customs on Acquisition of Land and Building Rights (State Gazette of the Republic of Indonesia of 2011 Number: 1 and Supplement to the State Gazette Number: 71), explain that the basis for tax imposition is the Acquired Value of Tax Objects (NPOP).

Determination of NJOP (Sales Value of Taxable Object) refers to the Tax Object Acquisition Value (NPOP), namely the transaction price, market value, and transaction price listed in the minutes of auction. NJOP (Sales Value of Taxable Object) reported by the taxpayer must be in accordance with the actual transaction price or real conditions in accordance with the agreement between the seller and the buyer. However, it often happens in the field, taxpayers report a lower NJOP (Sales Value of Taxable Object) than the transaction price or the actual market value to avoid paying high Acquisition Duty of Right on Land and Building (BPHTB).

This is because the collection system for the Acquisition Duty of Right on Land and Building (BPHTB) is based on a self-assessment system. Self-assessment system or tax calculation system by the people, namely by giving authority to taxpayers to calculate, pay and report taxes owed or to be paid. This means that in this case the taxpayer is required to be active in understanding and understanding the system of implementing the taxation law and the state only acting as a supervisor for the implementation of the tax law.

Based on the self-assessment system, the party who acquires land and/or building rights as a taxpayer can calculate, pay and report the Acquisition Duty of Right on Land and Building (BPHTB). Therefore, the party who is disadvantaged in this case is the State due to a decrease in regional income, while the party who benefits in this case is the taxpayer because the burden of the Customs on Acquisition Duty of Right on Land and Building (BPHTB) which is their obligation is lower.

So that it is necessary for taxpayers to know about the Customs for Acquisition Duty of Right on Land and Building (BPHTB) and awareness of the taxpayers to pay the Customs for the Acquisition Duty of Right on Land and Building (BPHTB) in accordance with the actual NJOP (Sales Value of Taxable Object) in accordance with the agreement of the seller and buyer. This knowledge should be known by taxpayers to avoid taxes owed by taxpayers. This underpaid tax will be issued in the form of an Underpaid Tax Assessment Letter (SKPKB) by the Batam City Revenue Service Office.

In addition to paying the tax shortfall, the taxpayer also has to pay a penalty in the form of interest, the amount of which depends on the amount of the tax less. Thus, the approach taken by the Batam City Revenue Service to taxpayers and awareness of the taxpayers themselves is very necessary in order to pay the actual NJOP (Sales Value of Taxable Object).

2. NJOP (Sales Value of Tax Objects) Reported by Taxpayers Is Not In Accordance With the Calculations of Batam City Regional Revenue Service Officers

Determination of NJOP (Sales Value of Taxable Object) for determining the Acquisition of Duty of Rights on Land and Building (BPHTB) often causes problems in the field. The Batam City Regional Revenue Service officer expects the Acquisition of Duty of Rights on Land and Building (BPHTB) to be paid for a maximum. If there is any doubt from the Batam City Regional Revenue Service officer in the validation process of the Acquisition of Duty of Rights on Land and Building (BPHTB) against the NJOP (Sales Value of Taxable Object) which is used as the basis for imposing the Acquisition of Duty of Rights on Land and Building (BPHTB), then based on the results of the tax validation there is a possibility that the NJOP (Sales Value of Taxable Object) which is used as the basis for the imposition of the Acquisition of Duty of Rights on Land and Building (BPHTB) will change according to the fair market price at that time, until the issuance of a Letter of Intent. Stipulation of Local Tax on Underpaid Land and Building Rights Acquisition Fee (SKPDKB). The Regional Tax Underpayment Assessment Letter (SKPDKB) is issued by the Regional Revenue Service

The definition of underpaid local tax assessment letter (SKPDKB) is a tax assessment letter that determines the amount of the tax principal, the amount of tax credit, the amount of underpayment of the tax principal, the amount of administrative sanctions, and the amount of tax still to be paid. This is because the Batam City Revenue Service officers consider that the NJOP (Sales Value of Taxable Object) which is used as the basis for the imposition of the Acquisition of Duty of Rights on Land and Building (BPHTB) is not in accordance with the fair market price. Therefore, the Batam City Revenue Service officer requested that the NJOP (Sales Value of Taxable Object) be changed and adjusted according to the tax officer's assessment.

The Batam City Regional Revenue Service will examine several things in the Acquisition of Duty of Rights on Land and Building (BPHTB) tax validation process, namely: the suitability of the tax object with the Tax Object Number on the land and/or building concerned, the suitability of the tax subject, and the suitability of the tax object. NJOP (Sales Value of Taxable Object) which is used to calculate the Acquisition of Duty of Rights on Land and Building (BPHTB).

Thus, the Acquisition of Duty of Rights on Land and Building (BPHTB) collection system does not fully adhere to a self-assessment system, because even if taxpayers are entrusted with being able to calculate, pay, and self-report the taxes owed, there is the possibility of tax officials intervening in the process determine fair value. In the validation process, if there is any doubt from the tax officer about the transaction value used as the basis for imposing the Acquisition of Duty of Rights on Land and Building (BPHTB), there is a possibility that careful research will be carried out, if necessary, a site review will be carried out by field officers by seeking value information. in a fair manner by comparing the Sales Value of the Tax Object (NPOP) on the land and building concerned. So, based on the validation results, it is possible that the value proposed as the basis for the imposition of the Acquisition of Duty of Rights on Land and Building (BPHTB) will be changed according to the actual transaction value fairly.

So that the implementation of the regulations regarding the Acquisition of Duty of Rights on Land and Building (BPHTB) can be effective, both taxpayers and public officials who violate the provisions or do not fulfill their obligations, are subject to sanctions according to the applicable laws and regulations

CONCLUSION

1. Acquisition of Duty of Rights on Land and Building (BPHTB) is a type of tax which is collected by the Regional Revenue Agency. Acquisition of Duty of Rights on Land and Building (BPHTB) is a tax imposed on the acquisition of rights to land and/or buildings. The Acquisition of Duty of Rights on Land and Building (BPHTB) is regulated in the Law of the Republic of Indonesia Number: 20 of 2000 concerning Amendments to Law Number: 21 of 1997 concerning the Acquisition of Duty of Rights on Land and Building (State Gazette of the Republic of Indonesia of 2000 Number: 130 and Supplementary Gazette Number: 3988); Law of the Republic of Indonesia Number: 28 of 2009 concerning Regional Taxes and Regional Levies (State Gazette of the Republic of Indonesia of 2009 Number: 130 and Supplement to the State Gazette Number: 3988); and Batam City Regulation Number: 1 of 2011 concerning the Acquisition of Duty of Rights on Land and Building (State Gazette of the Republic of Indonesia of 2011 Number: 1 and Supplement to the State Gazette Number: 71).
2. The general tax collection system in Indonesia adheres to a self-assessment system, namely that taxpayers are given the trust to be able to calculate, pay, and self-report the taxes owed, so that through this system the implementation of tax administration is expected to be carried out in a neat, controlled, simple, and efficient manner. easy to understand by members of the taxpayer community. Therefore, the Acquisition of Duty of Rights on Land and Building (BPHTB) tax collection uses a self-assessment system, so that parties who obtain

land and/or building rights as taxpayers must calculate, pay, and report their own taxes. By using a self-assessment system, the amount of NJOP (Sales Value of Taxable Object) is determined by the taxpayer himself.

3. NJOP (Sales Value of Taxable Object) reported by the taxpayer is not in accordance with the actual facts that have been agreed by the seller and the buyer. NJOP (Sales Value of Taxable Object) reported by the taxpayer must be in accordance with the actual transaction price in accordance with the agreement between the seller and the buyer. However, it often happens in the field, taxpayers report a NJOP (Sales Value of Taxable Object) lower than the actual transaction price or a fair market price, so that taxpayers can pay a lighter Acquisition of Duty of Rights on Land and Building (BPHTB), so that the value used as the basis for calculating the tax is not in accordance with the actual reality that has been agreed upon by the seller and the buyer.

NJOP (Sales Value of Taxable Object) reported by taxpayers may change. If there is any doubt from the Batam City Regional Revenue Service officer in the validation process of the Acquisition of Duty of Rights on Land and Building (BPHTB) Tax against the NJOP (Sales Value of Taxable Object) which is used as the basis for imposing the Acquisition of Duty of Rights on Land and Building (BPHTB), then based on the results of the tax validation, it is possible that the NJOP (Sales Value of Taxable Object) which is used as the basis for the imposition of the Acquisition of Duty of Rights on Land and Building (BPHTB) changes.

SUGGESTION

1. To the relevant agencies in conducting research and supervision of taxpayer compliance in paying the Acquisition of Duty of Rights on Land and Building (BPHTB) tax, as well as in its receipt and management.
2. Notaries as Land Deed Making Officials (PPAT) are expected to provide clear and good explanations to taxpayers, especially regarding the Acquisition of Duty of Rights on Land and Building (BPHTB).
3. Taxpayers need high awareness and honesty to carry out their obligations in paying Acquisition of Duty of Rights on Land and Building (BPHTB) taxes.

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