

IMPOSITION OF BUYER'S TAX IN THE PROCESS OF LAND BUYING IN KARAWANG REGENCY

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ABSTRACT

The study discusses the implementation of the tax on the sale of land in the Karawang district under the self assessment system. The purpose of this study is to know about the implementation of land and property rights arrangements in the Karawang district. The study used normatif juridical, the data source used in the study was grouted into 3 (three) that is primary, secondary, and tertiary law material. As the result of this study shows that BPHTB, based on the purchase of goods and services in the Karawang district, has been hit by a number of obstacles due to a change in tax revenues Peraturan Daerah Nomor 4 tahun 2011 tentang Bea Perolehan Hasil Atas Tanah dan Bangunan such as has been explained in article 4 of the verse (1) and (2) that the implementation of customer taxes is based on two things - the value of the tax object and the value of the transaction.

Key words: Imposition of Buyer Taxes, Buying and Selling Land, BPHTB

INTRODUCTION

In an effort to fulfill the government's obligations related to its duties in the context of administering the government in order to maintain the development process, the government establishes taxes and levies as a source of state revenue. One type of tax that became the talk of the community was when Law Number 34 of 2000 concerning Regional Taxes and Levies was enacted as a replacement for Law Number 18 of 1997 (Widjajati 2013).

The promulgation of Law Number 34 of 2000 concerning Regional Taxes and Regional Levies is a form of appreciation for the implementation of regional autonomy which gives great authority to regions in the context of administering government-based services to the community, due to the lack of Regional Original Revenue (PAD), the regional tax base. limited, the number of problematic regional regulations regarding collection and the weak supervision of regional levies because the supervision system is still repressive and the application of sanctions is not yet maximized.

Law Number 34 of 2000 is a regulation that contains regional taxes and regional retributions, in which there are four new types of taxes that are fully authorized to the regions such as the Rural and Urban Land and Building Tax (PBB P2) which was previously the authority of the center. Regarding the transfer of authority to levy Customs on Transfer of Rights on Land and Buildings (BPHTB) from the central government to regional governments as mandated by Law Number 34 of 2000, that the biggest purpose of the transfer of Duties on the Acquisition of Rights on Land and Buildings (BPHTB) is none other than to increase local taxing. district and city power which so far has not run optimally.

In Law Number 34 of 2009 concerning Regional Taxes and Regional Levies, it is stated that the system for paying BPHTB payables uses the Self Assessment System, as well as the Regional Regulation of Karawang Regency Number 4 of 2011 concerning Customs for Acquisition of Rights on Land and Buildings. In Regional Regulation Number 4 of 2011 Article 4 states that BPHTB payments due to buying and selling are based on the value of the transaction and the imposition of using a self-assessment system, where this is not in accordance with the regulations of the Karawang Regency Regional Regulation.

RESEARCH METHODOLOGY

The research method used is normative juridical using three approaches, namely the conceptual approach to legislation, and the historical approach. The data source used is secondary data, which consists of primary legal materials, secondary legal materials and tertiary legal materials.

DISCUSSION

Imposition of Buyer Tax in the Process of Buying and Selling Land in Karawang Regency

In connection with the enactment of Law Number 28 of 2009 dated September 15, 2009 concerning Regional Taxes and Regional Levies, the authority to collect BPHTB is delegated to district/city governments starting January 1, 2011.

In the discussion of the Customs for the Acquisition of Land and Building Rights, there will be some standard definitions. These definitions include: (UUD No. 28 2009)

1. Fee for the Acquisition of Land and Building Rights (BPHTB) is a tax on the acquisition of rights to land and or buildings. In this discussion, BPHTB hereinafter referred to as tax.

2. Acquisition of rights to land and or buildings is an act or legal event that results in the acquisition of rights to land and or buildings by an individual or entity.
3. Rights to land and or buildings are rights to land, including management rights and buildings thereon, as referred to in the law in the field of land and buildings.

The legal basis of the Customs on Acquisition of Rights on Land and Buildings are:

1. Law Number 21 of 1997 as amended by Law Number 20 of 2000 concerning Fees for Acquisition of Rights on Land and Buildings. This Law replaces the 1924 Staatsblad Transfer of Name Duty Ordinance Number 291.
2. Law Number 28 of 2009 concerning Regional Taxes and Regional Levies.
3. Regional Regulation Number 4 of 2011 concerning the Imposition of Acquisition of Duty on Land in Karawang Regency

The tax object of BPHTB is the acquisition of land and or building rights. Acquisition of rights to land and or buildings includes: (Law No. 20 of 2000)

1. Transfer of rights due to:
 - a. Buy and sell.
 - b. Exchange.
 - c. Grant.
 - d. Will grant.
 - e. Inheritance.
 - f. Income in a company or other legal entity.
 - g. The separation of rights resulting in the transfer.
 - h. Appointment of the buyer in the auction.
 - i. The implementation of the judge's decision which has permanent legal force.
 - j. Business combination.
 - k. Business consolidation.
 - l. Business expansion.
 - m. Present.
2. Granting of new rights because:
 - a. Continuation of the waiver.
 - b. Apart from the waiver.

The tax subject of BPHTB is an individual or entity that obtains rights to land and or buildings. BPHTB taxpayers are individuals or entities that obtain land and or building rights. The basis for the imposition of taxes is the Acquired Value of Tax Objects (NPOP). The amount of the NPOPTKP is determined regionally at a minimum of Rp. 60,000,000.00 (sixty million rupiah), except in the case of the acquisition of rights due to inheritance or a testamental grant received by an individual who is still in a blood family relationship in a straight line of one degree and above. degrees and below with the grantor of wills, including husband/wife, the Acquired Value of Non-Taxable Tax Objects is determined regionally to be at least Rp. 300,000,000.00 (three hundred million rupiahs). The amount of the NPOPTKP is determined by a Regional Regulation. The amount of the tax rate is set at a maximum of 5% (five percent). Tariffs for Acquisition of Rights on Land and Buildings shall be determined by a Regional Regulation. How to calculate BPHTB = (NPOP - NPOPTKP) X tax rate.

That it is clear in the Regional Regulation of Karawang Regency Number 4 of 2011 concerning Customs for the Acquisition of Land Rights, Article 4 paragraph (1) and paragraph (2) point a that the basis for imposition and tax rates is based on two things, namely based on the Value of the Tax Object and transaction value. Therefore, with changes in tax rates determined by DPPKAD Karawang Regency, in this case experienced by several Notaries in Karawang Regency as described below, of course this is contrary to Karawang Regency Regional Regulation No. Land. Some examples of cases that the author found in the field that occurred in Karawang Regency and experienced by several Notaries in the imposition of buyer taxes, as experienced by:

➤ **Notary Saefudin, SH, MKn.**

Mr. Sukanto who buys a plot of land with an area of 250 square meters for IDR 100,000,000, then the obligations that must be settled are PPh: $IDR\ 100,000,000 \times 2.5\% = IDR\ 2,500,000$ and BPHTB: $(IDR\ 100,000,000 - IDR\ 60,000,000) \times 5\% = Rp\ 2,000,000$, but after being submitted to the DPPKAD there was a change, namely based on the results of field checks the market transaction price became Rp 231,168,000, then the obligation to be settled was income tax: $Rp\ 231,168,000 \times 2.5\% = IDR\ 5,779,200$ and BPHTB: $(IDR\ 231,168,000 - IDR\ 60,000,000) \times 5\% = IDR\ 8,558,400$.

With the change in payment that must be paid by the buyer, of course this can result in several things, including:

1. Legal uncertainty and injustice for the community to participate in development financing according to their abilities in this case the Buyer.

2. Notaries feel aggrieved by the regulation of payment changes imposed by DPPKAD which contradicts the Karawang Regency Government Regulation Number 4 of 2011 concerning the Imposition of Duties on the Acquisition of Land and Building Rights.
3. In the change in payment experienced by the Buyer, the seller's tax payment should also change, but in practice, the seller's tax does not change after a change in the price of the buying and selling process, of course this is contrary to the regulations issued by the Karawang Regency government.

CONCLUSION

Based on the research that the author has described, the authors conclude this research as follows:

The regulation on the imposition of Duties on the Acquisition of Rights on Land and Buildings is clearly regulated in the Government Regulation of Karawang Regency Number 4 of 2011 concerning Customs for the Acquisition of Rights on Land and Buildings, that the imposition of the buyer's tax due to buying and selling is determined by two things, namely the Sale Value of the Tax Object and the Transaction Value, as contained in article 4 paragraphs (1) and (2), article 4 paragraph (1) reads: "The basis for imposition of Duty on Acquisition of Rights on Land and Buildings is the Acquired Value of Tax Objects, and Article 4 paragraph (2) point (b): "Selling buy is the transaction price". The existence of these regulations means that if there is a change in the rules for changing the buyer's taxation that is not based on these regulations, it means that it cannot be justified because this is detrimental to the buyer which in the end there is no legal certainty for the buyer.

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