

Ratio Legis of the Deed of Sale and Purchase Agreement as an Object of Land and Building Acquisition Duty

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Abstract

This research attempts to unravel the various dynamics governing BPHTB. This research focuses on examining two issues, namely (1) the ratio legis of PPJB regulation as the object of BPHTB and the implications of PPJB as the object of BPHTB after the issuance of Law 1/22 which amended the previous BPHTB Law as a whole. In this paper, it is found that there are several reasons that make PPJB as the object of BPHTB, namely: (1) based on the social function of land based on the agrarian law regime, so that every acquisition of land rights is taxed which is used as a net regional income; (2) the imposition of BPHTB on PPJB as an increase in regional income; (3) from the nature of PPJB as a binding transaction and as a marker of a legal event which is then followed by the making of AJB as the basis for the acquisition of land rights. Second, the implications of BPHTB for the changes in the original regulation in the PDRD Law which was later revoked by the 2022 HKPD Law, have made several changes that affect the legal certainty of taxpayers in paying BPHTB. There is an antinomy in regulating the time payable and payment of BPHTB to the local government. The time payable arrangement as the basis for payment is made after the signing of the sale and purchase deed. However, the payment arrangement states otherwise, namely at the time the sale and purchase deed is signed. However, on the other hand, the regulation also requires the notary to request proof of payment before the signature of the sale and purchase deed. The difference in provisions on the time payable and the deadline for payment affects the legal certainty of the sale and purchase process, and is not in accordance with the meaning of BPHTB as a duty paid after the acquisition of land rights. In addition to the implications that arise for taxpayers, the above arrangements also affect the legal certainty of notaries / PPATs who carry out their duties which are overshadowed by sanctions if they sign the deed before BPHTB is paid in full. The research method used in this writing is normative juridical research method, using three types of approaches, namely historical approach, legislative approach and conceptual approach. The urgency of implementing tax collection on deeds of acquisition of land rights known as BPHTB is to emphasise the social function of land through tax collection carried out by the government. PHTB on PPJB is one of the sources of local revenue used to organise local government and third, namely from the nature of PPJB which is an agreement that binds both parties to the certainty of the transaction being carried out, as the initial act of the legal event of sale and purchase in question.

Keywords: *Ratio Legis, BPHTB, Legal Certainty.*

INTRODUCTION

The concept of tax law has divided the two jurisdictions of the government's authority to collect taxes in accordance with the type and designation as stipulated in the legal provisions. Autonomously, local governments also have the right to collect taxes and levies that are legally permitted to them. Normatively through the provisions of Article 2 of Law No. 28/2009 on Regional Taxes and Levies (PDRD Law). Through this law, it has classified several types of tax sources that can be withdrawn by the regions, one of which is the Fees for Acquisition of Rights on Land and Building (BPHTB).

BPHTB was then reaffirmed in Law Number 1 Year 2022 on Central and Regional Financial Relations (HKPD Law). This law also separates several types of taxes that are the jurisdiction of the central government and the jurisdiction of local governments. BPHTB, which is part of the taxes under the authority of the local government, has experienced many changes after being regulated in Law 1/ 2022. One of them is regarding the payable time for BPHTB

payment, where there is an antinomy and difference in the article between Law 1/ 2022 and the implementing regulations contained in PP 35/2023.

Through the HKPD Law, it is stated that the time when BPHTB is payable is when the deed of transfer of rights has been signed or has been made and there is a land rights acquisition agreement between the two parties. However, the formulation of the regulation in Article 59 of PP 35/2023 requires that BPHTB tax payments must be made 'Payment or deposit of Fees for Acquisition of Rights on Land and Building (BPHTB) as referred to in paragraph (8) and paragraph (9) letter b shall at the latest be paid at the time of signing the sale and purchase deed'. In addition, there is also confirmation in Article 60 which provides an obligation for notaries to request proof of BPHTB tax payment owned by both parties who will transfer land rights. The differences in the regulation of payment obligations and suspension of BPHTB payable time create disharmonisation of legislation on the object of BPHTB regulation. In addition, it also affects the notary's obligation to collect first compared to the signing of the deed.

With reference to this background, this research focuses on examining two problem formulations related to BPHTB, namely: (1) what is the ratio legis of the formation of regulations on the binding of sale and purchase as an object of Land and Building Rights Acquisition Duty in several regions; (2) what are the legal implications arising if the Deed of Sale and Purchase Agreement becomes an Object of Land and Building Rights Acquisition Duty based on legal protection for the buyer.

This research related to BPHTB is not the this is not the first research. Previously, there have been previous studies that related to BPHTB. Previously, Satria Braja Hariani, Julia Rahma Sitepu and Margaretha Saragih 'Collection of Fees on Acquisition of Rights on Land and Buildings (BPHTB) in Review of Law No. 20/2000 on BPHTB' from Law Number 20 Year 2000 on BPHTB, which in this paper still highlights the obligation to collect BPHTB. This article still highlights the obligation to collect BPHTB as stipulated in Law 20 of 2000, while this article tries to look at BPHTB in the aspect of land and building rights acquisition tax (BPHTB).

tries to look at BPHTB in the aspect of Law No. 1 of 2022, which places BPHTB as part of the government's collection rights.

RESEARCH METHODS

The research method used in this research is normative legal research method, this is because there is a form of legal uncertainty that causes disharmony in the regulations regarding BPHTB on the deed of sale and purchase agreement in PP No. 35 of 2023 concerning Regional Taxes and Regional Levies. Normative juridical research according to Peter Mahmud Marzuki is the process of finding legal rules, legal principles, and legal doctrines in order to answer the legal issues at hand This research uses two types of legal research approaches, namely conceptual approaches and historical approaches. The conceptual approach parses the process of law formation along with the concepts behind it. While the historical approach tries to capture how the dynamics and legal formation from time to time are adjusted to the development of law and society. legal materials used to build this research use two types of legal materials, namely, primary legal materials in the form of a set of laws and regulations that are used as touchstones to be analysed in this study. secondary legal materials used in this research are also in the form of books and journals from previous research. The data collection mechanism in this research uses two types, namely technical collection through documentary studies that try to trace research related to the issue under study. The literature study technique used in this research is a literature review of previous research and other relevant research.

RESULT AND DISCUSSION

Ratio Legis for the Regulation of Land and Building Acquisition Duty Academic paper that regulates BPHTB

Taxes are the largest source of state revenue. Tax revenue accounts for 75% of the total state budget revenue. Vito Tanzi even asserts that in the 21st century taxes will become the mainstay of the state along with the increasing role of the state in the economic system. Given the importance of taxes for the sustainability of the state and government, designing a good tax policy is a necessity. The success of development is largely determined by the level of tax revenue, or in other words, building a good tax system is a prerequisite for the successful achievement of revenue targets.

It cannot be denied the magnitude of the role of taxes in the context of state development, it is when viewed in the philosophical perspective of tax collection by the state seen from various theories. Joseph A. Schumpeter then asked a question why we have to pay taxes, even though some of the citizens feel robbed of their assets.

Schumpeter's answer to this question is 'The spirit of a nation, its cultural level, its social structure, and the conduct of its policies - all these are written in its tax history. He who understands how to hear this message will be able to find the thunder of civilisation louder than anywhere else'. Schumpeter was certainly not making this up as he observed the war-driven march of civilisation that always requires a budget and hence taxes become important. Starting from Schumpeter's pioneering work, in the last decade there has been widespread interest under the new fiscal sociology school that understands taxes with a historical-comparative approach from various nodes: socio-cultural, economic, and political. From the perspective of fiscal sociology, at least three root approaches can be traced as to why taxes are important in human civilisation. First, the modernisation theory led by Edwin R.A. Seligman.

This approach believes that the modernisation of the economic system will encourage the development of the tax system and democracy. In other words, the quality of the tax system depends on economic development. The second elite theory is influenced by the thoughts of Italian economist Amilcare Puviani and developed by James Buchanan and Gordon Tullock. Taxes are important because they are related to the government's need to finance development and public spending. This approach

It bases its argument on elite hegemony, i.e. citizens' acquiescence to elite policies generated by democratic processes, even though these policies ultimately create room for corruption and rent-seeking. Third, the militarist theory pioneered by Joseph A. Schumpeter and inspired by Herbert Spencer and other German and Austrian theorists in the early 20th century. Why is attention to taxes so important? Militarist theorists argue that this is due to competition between states that encourages due to competition between states that encourages conquest through military force. military conquest. Consequently, the state was legitimised to levy taxes as a source of financing. Not quite satisfied with these three approaches, thinkers from the The new fiscal sociology school of thought designed a more comprehensive and contextualised approach. Driven by the motive to overcome the limitations of traditional sociological theory, new fiscal sociology theorists put their attention on three things. First, the focus on informal social institutions because taxation practices are often embedded in informal social relations rather than written and institutionalised ones. Second, studies that pay serious attention to historical contexts and sequences. New fiscal sociology treats various facts and disciplines as a weave that is intertwined and influences each other, not something that stands alone. Third, greater attention to the societal level rather than the individual. Domains such as social terrain, labour systems, economic patterns, democratic systems are closely linked to the phenomena of

war, state development, and social solidarity. social solidarity. All these aspects and dimensions affect the development of the tax system. In short, why people pay taxes must be approached comparatively and multidisciplinary to obtain a complete and correct understanding because it takes into account the complexity of aspects and dimensions. There is a tension between hegemony and domination, voluntarism and coercion.

In the context of legal formation in Indonesia, it also provides some considerations for the legal formation of tax collection carried out by the state. Of course, it is not much different from what was stated by the previous philosophers. The withdrawal of taxes carried out by the state in order to finance the realisation of the ideals of the state as contained in the constitution, that the state has an obligation to educate the nation's life, develop education, provide health services, provide development and government facilities and other obligations owned by the government.

In relation to the authority to collect taxes to finance the development agenda both at the central and local levels, the regions are also based on the principle of decentralisation, a principle that calls for freedom and autonomy for the regions to carry out their own governance tailored to the needs and origins of the regions concerned.

In the structure of the formation of laws and regulations, the authority of local governments to form regulations is based on decentralisation, namely the legislative authority inherent in the regional head and DPRD as the main element of local government. In addition, the formation of local laws and legislation is inseparable from the mandate of higher regulations based on the principle of tiered legal formation, as well as local government policies in terms of legal formation or local regulations relating to BPHTB, which refer to Law 1/2022, which is part of the taxes and levies of the district / city government.

However, there are three main reasons that, when analysed philosophically, relate to the ratio legis of taxing BPHTB from both an agrarian and local government tax perspective. First, from an agrarian perspective. When referring to Article 6 of the PA Law, it states that all land rights have a social function, which then becomes the principle of the social function of land. The function of legal norms to be binding must be based on legal principles. Legal principles form the content of legal norms formulated in legal regulations. Without knowing the principles of law, it will not be possible to understand the nature of law. Therefore, to understand the law of a nation, it must explore its legal principles.

Regarding the existence of the principle of social function of land rights in a legal state as one of the principles of agrarian law, it has a very important role in realising the objectives of the state in the concept of a welfare state like Indonesia. Contained in the principle of social function of land rights, the fulfilment of land rights for the greatest prosperity of the people as stipulated in the 1945 Constitution. Fundamentally, the social function principle of land rights aims to ensure the benefits of land for the greatest prosperity of the people. As a state of law with the concept of a welfare state based on Pancasila, the utilisation of land must guarantee a sense of justice for all the people.

The application of the principle of social function of land rights is a strategy for the realisation of a state of law that guarantees equitable land use. For this reason, it is very important to study the nature of the principle of social function both in theoretical and juridical reviews, and its application in Indonesia, as a strategic effort to fulfil land rights for the greatest prosperity of the people. On the basis of these considerations, the state can then request and collect taxes on lands that are transferred to support development and social interests in the implementation of the life of the nation and state.

Secondly, BPHTB is one of the sources of net income for local governments that will be used as expenditure for government needs. In the concept of governance, especially the relationship between the central government and local governments, the historical and conceptual principles of decentralisation are carefully examined. This principle runs with two

other main principles, especially in government affairs, namely the principles of deconcentration and co-administration. These three are the principles that bind the implementation of local government, which also includes local government financial affairs which are also carried out based on these three principles.

The three principles then give the ability to the region to manage and regulate its own sources of income outside of revenue sourced from government transfer funds. The authority to manage its own taxes is based on the ability and needs of the government to manage its own financial resources.

Third, from the nature of the PPJB made by a notary, examined from the nature of the type of PPJB made by a notary, as well as in the context of the acquisition of land rights through the sale and purchase process, which in essence has carried out a land sale and purchase agreement with proof through PPJB reinforcing the acquisition of land rights owned by both parties and the obligations for the parties.

So in this case, PPJB as its nature as an authentic document that explains the existence of transactions and legal events of engagement. It is this right that makes PPJB an object of BPHTB imposition, namely when there is an authentication that proves the transfer and acquisition of rights to land and buildings.

Laws and regulations governing BPHTB

In a modern legal state, the principle of legality plays an important role in realising a just and certain law in running the government. The principle of legality requires good regulation and legislation in the administration of government. It requires that every action taken by the government must be based on a *ius constitutum* that applies as a justification or an action. On the other hand, the principle of legality avoids the administration of government from an arrogant attitude that acts arbitrarily and performs actions outside of its authority. Including in the case of tax collection carried out by the state, the government must be based on applicable positive law. The development of tax law itself has divided several forms of tax based on its jurisdiction, some are classified as part of the tax calculated for the central government and calculated for local governments. Likewise, BPHTB is positively regulated in several applicable laws and regulations.

BPHTB itself was originally a tax that was collected and deposited with the central government, but since the enactment of Law 28/2009 which changed BPHTB to be part of the local taxes and levies of districts and cities. The purpose of the shift in BPHTB tax collection, which was originally the right of the central government to become a right attached to the local government, is based on the aim and encouragement to create growth in the fiscal value of local governments, given the varying value of tax sources, the government added BPHTB as part of the Regency / City tax type. After the shift in the authority to collect district and city taxes, at least the number of regions that experienced a gain was (86 districts / cities or 17.5 per cent of the number of districts / cities) and concentrated in the Java region. The total increase in BPHTB is around Rp.2 trillion, which is divided into around Rp.1.5 trillion for areas in Java, and around Rp.495 billion for areas outside Java. Specifically for DKI Jakarta, there was a significant increase of Rp.493 billion. In addition, the transfer of BPHTB also had an impact on a decrease (loss) of local revenue of around Rp.894 billion in most districts / cities (405 districts / cities or 82.5 per cent), which occurred mainly in the regions of Sumatra, Sulawesi and Papua. Thus, on a net (national) basis, the transfer of BPHTB still has a positive impact on increasing local revenue by around Rp.1.1 trillion.

Judging from the history of its development, BPHTB was first regulated in Law Number 21 of 1997 (Law 21/1997) which explains that BPHTB is a tax obtained from the acquisition of rights to land and buildings called tax. This law mentions at least two types of land rights acquisition objects that can be subject to land rights acquisition duty, the first is the transfer of

rights and the granting of new rights to legal subjects. Both of the four laws mention that the party who becomes the BPHTB taxpayer is the party who obtains the acquisition of the right.

Object BPHTB.

In its development, the object of land acquisition duty has been developed and expanded through the amendment of several laws after the enactment of Law 21/1997. This law was later amended by Law No. 20/2000 concerning Amendments to Law No. 21/1997 concerning Fees for Acquisition of Land and Building Rights (Law 20/2000). The provisions of BPHTB objects are then re-regulated in Law No. 28/2009 on Regional Taxes and Levies as well as in Law No. 1/2022 on Central and Regional Financial Relations, which explains the objects of PPHTB as follows:

Table 1 : Objects of BPHTB in several laws and regulations

Law	Law number 21/1997	Law number 20/2000	Law number 28/2009	Law number UU 1/2022
Article	<p>Article 2 states Fees on the transfer of land rights have the following objects:</p> <p>a. Trans fer of rights due to;</p> <ol style="list-style-type: none"> 1. Sale and purchase 2. Exch ange 3. Grant 4. Testa mentary grand 5. Insert ion in a company or other legal entity ; 6. Separ ation of rights resulting in transfer 7. Appo intment of buyer in an auction 8. Imple mentation of a judge's decision that has permanent legal force 9. Gift <p>b. Grant ing new rights in the form of:</p> <ol style="list-style-type: none"> 1. Conti nuation of the release of rights 	<p>Article 2 states that:</p> <p>Fees on the transfer of land and building rights are referred to as follows:</p> <p>a. Trans fer of rights due to</p> <ol style="list-style-type: none"> 1. Sale and purchase 2. Excha nge 3. Grant 4. Testa mentary grant 5. Inheri tance 6. Insert ion in a company or other legal entity 7. Separ ation of rights resulting in transfer; 8. Appoi ntment of purchase in an auction 9. Imple mentation of a judge's decision that has permanent legal force 10. Busin ess incorporation 	<p>Article 85 states that:</p> <p>Fees on the transfer of rights to land and buildings are referred to as follows:</p> <p>a. Tr ansfer of rights due to</p> <ol style="list-style-type: none"> 1. Sal e and purchase 2. Ex change 3. Gr ant 4. Te stamentary grant 5. Inh eritance 6. Ins ertion in a company or other legal entity 7. Se paration of rights resulting in transfer 8. Ap pointment of purchase in an auction 9. Im plementation of a 	<p>Article 44 states that :</p> <p>Acquisition of rights to land and buildings as intended, namely as follows:</p> <p>a. Tr ansfer of rights</p> <ol style="list-style-type: none"> 1. Sal e and purchase 2. Ex change 3. Gr ant 4. Te stamentary grant 5. Inh eritance 6. Ins ertion in a company or other legal entity 7. Se paration of rights which results in the transfer of rights 8. Ap pointment of buyer in an auction 9. Im plementation of a judge's decision

	<p>2. Outside the release of rights</p>	<p>11. Consolidation of business 12. Business expansion and/or 13. Gift b. Granting of new rights 1. Continuation of relinquishment of rights 2. outside the release of rights</p>	<p>judge's decision that has permanent legal force 10. Business incorporation 11. Consolidation of business 12. Business expansion and/or 13. Gift b. Granting of new rights 1. Continuation of relinquishment of rights 2. Outside the release of rights</p>	<p>that has permanent legal force 10. Business merger 11. Consolidation of business 12. Business expansion or 13. gift b. granting of new rights due to 1. continuation of the release of rights 2. outside the release of rights</p>
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Source: compiled independently by the author.

Judging from the dynamics of changes and expansion of the BPHTB taxable object itself, it began with the amendment of Law No. 20/2020 which added the object of acquisition of land rights in the form of inherited land, appointment at auction, business consolidation, business merger and business expansion to be part of the BPHTB taxable object itself.

In addition to the expansion of taxable objects on the process of transferring land rights, the government has also expanded the non-taxable objects in four applicable laws. Through several laws such as Law No. 21/1997, Law No. 20/2000 and Law 28/2009, it provides confirmation of the form of non-taxable objects regulated in several laws. Where referring to these provisions, there are 7 (seven) exceptions to the acquisition of land rights, namely as follows: (1) for offices of the Government, Regional Governments, state administrators and other state institutions that are recorded as state property or regional property; (2) by the state for the administration of government and/or for the implementation of development in the public interest; (3) for agencies or representatives of international institutions on the condition that they do not run a business or carry out other activities outside the functions and duties of the agency or representative of the agency as regulated by Ministerial Regulation; (4) for diplomatic representatives and consulates based on the principle of reciprocal treatment; (5) by individuals or entities due to conversion of rights or due to other legal acts with no change in name; (6) by individuals or entities due to waqf; (7) by individuals or entities used for the benefit of worship. For the seven forms of granting exemptions to BPHTB taxpayers for the acquisition of land rights by adding exempted subjects as taxpayers, namely low-income people in accordance with statutory provisions.

Time of BPHTB payable

Regarding tax, the place and time of BPHTB payable also experienced dynamics and developments at several stages of making laws governing BPHTB. The tax and time payable itself is explained in several regulations as follows:

Table 2: Comparison of BPHTB payable time arrangements in several regulations

UU	Bunyi Pasal
Law number 21/1997	<p>The moment that determines the tax payable on the acquisition of rights to land and buildings, namely:</p> <ol style="list-style-type: none"> 1. sale and purchase is from the date the deed is made and signed; 2. exchange is from the date the deed is made and signed; 3. hijah is from the date the deed is made and signed; 4. the entry into a company or other legal entity is as of the date the deed is made and signed; 5. separation of rights resulting in transfer is as of the date the deed is made and signed; 6. auction shall be as of the date of appointment of the winner of the auction; 7. judge's verdict is as of the date of the court decision that has permanent legal force; 8. bequest of will is as of the date on which the person concerned registers the transfer of his/her rights with the Land Office; 9. the granting of a new right to land as a continuation of the relinquishment of rights is as of the date of issuance of the decree granting the right 10. the granting of a new right outside the relinquishment of a right shall be as of the date of issuance of the decree of the granting of the right 11. gift as of the date on which the deed is made and signed
Law number 20/2000	<p>When tax is payable on the acquisition of rights to land and buildings, namely:</p> <ol style="list-style-type: none"> 1. sale and purchase is from the date the deed is made and signed deed; 2. exchange is from the date the deed is made and signed; deed is signed; 3. grant is from the date the deed is made and signed deed; 4. inheritance shall be as of the date on which the person concerned registers the transfer of rights to the Land Office; 5. insertion in a company or other legal entity is as of the date on which the deed is made and signed; 6. separation of rights that results in a transfer is as of the the date on which the deed is made and signed; 7. auction is as of the date of appointment of the winner of the auction; 8. judge's decision is as of the date of the court decision that has permanent legal force; 9. testamentary grant shall be as of the date on which the person concerned registering the transfer of rights to the Land Office;

	<p>10. the granting of a new right to land as a continuation of the granting of a new right to land as a continuation of the relinquishment of a right is as of the date of the signing and issuance of a decree granting the right;</p> <p>11. the granting of new rights outside the release of rights shall be as of the date of signing and issuance of the decree on the granting of rights of the granting of rights;</p> <p>12. merger of businesses shall be effective as of the date the deed is made and signed;</p> <p>13. business consolidation is from the date the deed is made and signed; deed is signed;</p> <p>14. business expansion is as of the date the deed is made and signed; deed is signed;</p> <p>15. gift is as of the date the deed is made and signed deed;</p>
Law number 1/2022	<p>When BPHTB is payable is as follows:</p> <p>1. on the date the sale and purchase binding agreement for sale and purchase is made and signed</p> <p>2. on the date the deed is made and signed for exchange, grant, bequest, inclusion in a company, or other legal entity, separation of other rights, separation of rights resulting in transfer, business merger, business expansion and or gift.</p> <p>3. On the date of receipt, the inheritor or the person authorised by the inheritor registers the transfer of rights with the Land Office for inheritance.</p> <p>4. On the date of a court decision that has legal force for a judge's decision.</p> <p>5. On the date of issuance of a decree granting rights for the granting of new rights to land as a continuation of the relinquishment of rights.</p> <p>6. On the date of issuance of a decree granting rights for the granting of new rights outside of a relinquishment or</p> <p>7. on the date of the appointment of the winner of the auction for auction</p>

Source: compiled independently by the author.

When referring to the regulatory dynamics in several laws above, it is found that there are differences in the determination of the time payable on BPHTB for the acquisition of land rights. Judging from the different regulatory contents in each law, it shows that the BPHTB payable time arrangement stipulated in Law 21/1997 determines several conditions of 11 (eleven) conditions of BPHTB payable time. The amendment to the BPHTB Law stipulated in Law 20/2000 adds four BPHTB payable times, this addition is adjusted to the addition of BPHTB objects stipulated in the provisions of Article 2 of the Law, namely adding a business merger is from the date the deed is made and signed. deed, business consolidation is from the date the deed is made and signed, business deed is signed, business expansion is from the date the deed is made and signed, gift is from the date the deed is made and signed, and gift is from the date the deed is signed. deed, gift is from the date the deed is made and signed. deed. Likewise, the provisions on the time of BPHTB payable contained in Law 28/2009 have the same provisions as Law 20/2000 with the same object provisions.

Not only that, the changes and dynamics of the regulation of when BPHTB is payable itself have also changed in Law 1/2022. Through this Law, it has the same substance regarding the

time when BPHTB is payable, but for exchanges, grants, bequests, inclusion in a company, or other legal entities, separation of other rights, separation of rights resulting in transfer, business mergers, business consolidation, business expansion and or gifts are regulated in 1 paragraph, where the imposition of BPHTB tax is imposed on notarial deeds and made into one regulation.

The dynamics of regulatory changes relating to BPHTB have brought many legal adjustments that must be made, both legal adjustments to the transition and changes in arrangements previously regulated in the PDRD Law which have been cancelled in the provisions of Law 1/ 2022 concerning central and regional financial relations. After the new regulation on BPHTB, there are several arrangements that have changed and have implications for the BPHTB withdrawal process carried out by Notary or PPAT.

The antinomy of BPHTB payment timing. Referring to the provisions contained in Article 18 paragraph (2) of PP 35/2023 which explains the time when BPHTB is payable and the amount of BPHTB that must be paid by the parties transferring rights or obtaining new rights is: (1) on the date the sale and purchase binding agreement is made and signed for sale and purchase; (2) on the date the deed is made and signed for exchange, grant, bequest, inclusion in a company, or other legal entity, separation of other rights, separation of rights resulting in transfer, business merger, business expansion and or gift; (3) On the date on which the recipient of the inheritance or the person authorised by the recipient of the inheritance registers the transfer of his/her rights at the Land Office for inheritance (4) On the date of a court decision having permanent legal force for a judge's decision (5) On the date of issuance of a decree granting rights for the granting of new rights to land as a continuation of the relinquishment of rights (6) On the date of issuance of a decree granting rights for the granting of new rights outside the relinquishment or (7) on the date of the appointment of the winner of the auction for the auction.

However, the technical arrangements contained in the provisions of Article 60 of PP 35/2023 provide an obligation for notaries to collect and request proof of BPHTB payment before signing the deed. of course, the provisions governing the payment time are contradictory and not in accordance with the provisions that explain the time BPHTB is payable by taxpayers. In addition, seen from the definition and meaning of BPHTB as a tax obtained from the acquisition of land rights carried out by citizens or legal entities. Meanwhile, the acquisition of land rights will be valid after there is evidence of the acquisition of rights in the form of sale and purchase agreements and agreements in other forms and deeds as authentic documents that formalise the transfer related to the object.

Other implications apply to notaries, amidst the differences in the sound of the law, there is certainly confusion in the application of determining the time to pay BPHTB. PPAT or Notary who violates the provisions of the deed signature before payment is made for the acquisition of rights to land and buildings. Article 60 paragraph (2) states that a fine of Rp 10,000,000 (ten million rupiah) for each violation committed in relation to the signing of the deed before payment of BPHTB. As well as a fine for PPAT if the PPAT is late in reporting the acquisition of land rights.

The matter, when referring to the principle of legal certainty in realising the ideals of state administration and the purpose of tax collection as well as the principle of tax justice carried out in tax collection, will certainly be contradictory. The principle of legal certainty can only be achieved by the existence of clear and firm statutory regulations. The two norms are equally clear and firm, but contradict each other. Legal certainty is the juridical goal of law enforcement and regulation carried out by the government. In this context, of course, the difference in the time of payable and payment of BPHTB and the sanctions that only oblige one party are likely to hamper the objectives of legal certainty with implications for the BPHTB taxpayer itself and the notary or PPAT who made the deed

CONCLUSION

The dynamics and development of tax law governing the division of tax collection jurisdiction between the local government and the central government have brought various implications and changes, so it is necessary to adjust the rules relating to the central financial relationship of the central government and local government. Including in terms of BPHTB withdrawals made by local governments. Based on the results of the description above, there are several considerations that are used as the basis for making tax withdrawals on PPJB, the first consideration is the withdrawal of BPHTB Tax on PPJB based on the object that becomes a binder, namely land that has a social function as contained in the Agrarian Law.

So that the acquisition and transfer of land rights are taxed to encourage the application of these social functions in development. Second, BPHTB on PPJB is one of the sources of local revenue used to organise local government and third, namely from the nature of PPJB, which is a prior binding agreement for both parties for the certainty of the transaction carried out, as an initial act of the legal event of sale and purchase in question. The legal development of the BPHTB regulation of the PPJB Deed is regulated in several rules that are formed separately. For the first time, BPHTB was regulated in a separate law, namely Law 21/1997, which was later revised by Law 20/2000, then amended again in Law 28/2009 which regulates local taxes and levies, which in its development this law was cancelled through the enactment of Law 1/2022 which regulates the financial relations between the central government and local governments. In addition, the legal implications that arise after the birth of this Law stem from the antinomy and contradiction of norms contained therein. Looking at the regulation of BPHTB payable time starting from the deed of acquisition of land rights, but in other technicalities, it states that BPHTB payment is at the latest made at the time of signing the deed followed by the obligation of the notary to request proof of BPHTB payment before the deed is signed. If this is examined from the meaning of BPHTB as a result of the acquisition of rights, then the acquisition of rights will be valid after the deed describes the legal events and objects concerned.

In addition to the non-fulfilment of the principle of legal certainty, with the problematic difference in the time of tax payable and payment which is then followed by sanctions for notaries if they sign the deed first without the appointment of proof of BPHTB by the party who acquires the right. From the perspective of the notary himself, this principle creates injustice, where the notary is sanctioned not because of his negligence or mistakes, but because of the difference in the timing of tax payable and payment.

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