

# Customs Policy for Land and Building Rights in Optimization of Original Income in Aceh Besar District, Indonesia

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## ABSTRACT

One of fiscal decentralization is the transfer of BPHTB from a central tax into a local tax, as legalized by Act No. 28, 2009 on Local Tax and Local Retribution. The alteration is expected to increase the Regional Revenue aiming at the higher quality of public services. However, in Aceh Province, there are some discrepancy after four years of BPTHB becoming Local Tax, as indicated by the receipt of BPHTB before and after the change of the local authority. From 2010 to 2015, the revenue of BPTHB kept decreasing. For example, it was 4.872.474.266 in Aceh Besar in 2010, while in 2012, it was 1.125.672.534. It is expected that it becomes one of the sources of the revenue that is potential enough for the regions/municipality compared to the whole revenue of regional tax. The study used normative empirical legal research. The research revealed that the policy of taking the revenue is to increase the BPTHB. To change the related Law, especially regarding the tariff that must be adjusted and gradation based on criteria of determined land. The determination of land and the zone of land must be tailored and finalized by NJOP PBB based on the Head District; that the land will be differentiated based on its category in the municipality and village, such as agricultural and non-agricultural land, must be adjusted by the geographical position.

**Keywords:** *development, policy, BPHTB, local revenue*

## 1. INTRODUCTION

One of the embodiments of fiscal decentralization and regional autonomy is the delegation of authority to regional government to collect the sources of regional income, including tax. This delegation of authority is manifested through the completion of law provision concerning Regional Taxes and Retribution (hereinafter abbreviated as PDRD), as stipulated in Law No.28/2009.

The Duty on the Acquisition of Land and Building Rights (BPHTB) is one of the local taxes, which categorized in Regional/Municipal Taxes (Article 2 verse (2) letter k of Law Number 28/2009, concerning Regional Taxes and Retribution).

In the presence of Regional Taxes and Retribution Law, regional government is authorized to collect and manage their own BPHTB by implementing local regulation (*Qanun*), which expected to be able of increasing Locally-Generated Income (PAD) maximally to also improve the wellbeing of the community.

In the Law of Regional Taxes and Retribution, discretion is given to region in implementing tax rates, as mentioned in Article 87 verse (6) and Article 88 verse (2)

of Regional Taxes and Retribution Law, in which the regional/municipal government in this context, is provided with discretion to manifest any regulations that are compatible with the condition on each region. Regional Taxes and Retribution Law only limits the collection of the BPHTB in the region then allows for regional government to expand the regulation to meet the needs in the region.

The delegation of authority in tax collection or devolution of BPHTB from central government to regional government has been ran for three years since 1<sup>st</sup> January 2011. In Aceh province, all regencies and municipalities have already had *Qanun* which regulates the collection of the BPHTB, the collection of the Duty on the Acquisition of Land and Building Rights will be illegal without the presence of the *Qanun*.

The success of the delegation of the BPHTB into local tax can be measured by looking at the capability of the region to collect the entire potentials of the BPHTB in the area. The potential of the BPHTB is highly determined by economic activities occur in a region, thus, the standards that can be used as the comparison are the realization of the BPHTB revenues in 2009 and 2010 when the BPHTB was categorized as the central government tax and in 2011 and 2012 after it has become the local tax.

According to the preliminary data, the revenue of the BPHTB in the entire regencies of Aceh Province have decreased compared to the revenue of the BPHTB from profit-sharing funds when it is still categorized as central government tax. The data of PDA of Aceh Besar Regency have shown that the 3,781,542,000 out of 4,872,474,266 2010's budget has been realized. In 2011, 969,778,205 out of 2,500,000,000 budget has been realized, and in 2012, only 1,125,672,534 out of 1,125,672,534 budget has been realized..

One of the indicators causing the low revenue of the BPHTB after it has been set as regional tax was the high amount of Tax Object Acquisition Value (hereinafter referred to as NPOP) in which the transaction/market value was below the Non-Taxable Object Acquisition Value (hereinafter referred to as NPOTKP), resulting in non-payable Duty on the BPHTB. Although it has been regulated that if NPOP is unknown or lower than the sale value of the tax object of Land and Building Tax (NJOP-PBB), NJOP of Land and Building Tax is used as the bases of calculation and imposition of the Duty on the BPHTB.

According to the data obtained from Regional Revenue, Finance, and Asset Management Service of Aceh Besar Regency, it is found that the acquisition of rights of the object actually had higher transaction/market value than NPOTKP, therefore, a temporary suspicion occurred in which there might be an intention from taxpayer to conduct transfer of rights by decreasing the transaction price/market value to avoid the payment of the BPHTB.

Based on the data, it can be seen that before and after the delegation of authority of the BPHTB into local tax, there was a revenue gap, although, it is expected that the BPHTB could become one of the potential sources of PAD for Regencies/Municipalities compared to the entire revenues of the existing local taxes.

Based on the view illustrated above, the research problem is regarding the collection of the BPHTB in relation to the discretion mentioned in Law Number 28/2009 in Aceh Besar Regency, Aceh, Indonesia.

## 2. LITERATURE REVIEW

The main role of taxes is as the source of state revenue (budgetary function) and as the instrument to regulate (regulatory function). Waluyo and Wirawan B. Ilyas ( in Rochmat Soemitro) have expressed that taxes are law-based fees to state treasury (which can be mandatory) by not receiving considerations which is intended and used directly to pay the general expenditures.

Theoretically, PAD is the actual contribution provided by local people to support the autonomy status of their region. Without the support in the form of the high amount of PAD, it is crucial for a government to have more discretion in implementing daily governance or development in the related region. Ahmad Lutfi mentioned that a World Bank's expert argues that 20% margin of PAD

is the minimum limit to run regional autonomy. Suppose that PAD is less than 20%, thus, the region will lose its credibility as an independent unit.

Regional tax policies aim to give more legal certainty, strengthening local taxing power, improving the effectiveness of supervision and improving the management of regional tax income, as stipulated in Law Number 28/2009 concerning Regional Taxes and Retribution (PDRD) which has been effective since January 1 2010.

According to Regional Taxes and Retribution Law, regional taxes are the mandatory fee for regions owed by any individuals or institutions and imperative under the law with no direct compensation and be used for regional needs for the greatest prosperity of people.

According to Prakosa, regional taxes are the mandatory fee that should be done by individuals or institutions without any adequate compensation which is imperative under the applied law, the revenue is used to fund the regional governance and development.

For Aceh Province, based on Article 179 of Law Number 11/2006 concerning the Government of Aceh (hereinafter referred to as UUPA), it has been regulated that the revenues of Aceh and Regions/Municipalities consist of regional income and financing. Also, it has been determined in verse (2) as referred to in verse (1) that regional income is derived from PAD, Fiscal Balance Fund, Special Autonomy Fund, and other legal incomes. In Article 180 of UUPA, it is mentioned that the sources of PAD of Aceh and PAD of Regencies/Municipalities consist of:

- a. Regional Taxes
- b. Regional Retribution
- c. The revenues of regional wealth management that is separated between Aceh / regencies / municipalities and the revenues of equity capital of Aceh / Regencies / Municipalities.
- d. Zakat
- e. Other legal regional incomes of Aceh and regencies/municipalities.

In that order, the BPHTB is one of the regional taxes of regencies/municipalities as the PAD of regencies/municipalities. Before the establishment of Regional Taxes and Retribution Law, the collection of the Duty on the BPHTB was done by the Central Government, however, the entire revenues of the tax was redistributed to Regional Government through profit-sharing fund. In Law number 33/2004, concerning the financial balancing between regional and central governments. The revenues of the Duty on the Acquisition of Land and Building Rights are distributed toward the regions through the distribution patterns described as follows.

- a. 80% is the regional portion is distributed toward province and regencies/municipalities, and the details are as follows.
  - 16% for the related province, and
  - 64% for the producer regencies/municipalities
- b. 20% is the central government portion and distributed toward the entire regencies/municipalities with the same amount.

In regard to Article 180 Number 6 of Regional Taxes and Retribution Law, the provision of Law Number 20/2000 concerning the Duty on the Acquisition of Land and Building Rights still applies at least one year since the enactment of this law, thus, Year 2010 was the last year for the central government to manage the BPHTB. The delegation of the BPHTB to regional level is the strategic step in implementing fiscal decentralization of Indonesia.

This fiscal decentralization is an instrument used by the government in managing the development to stimulate regional or national economy. Through the mechanism of better financial relationship, the regional development is expected to be facilitated, therefore, it will generate better economic condition. The final outcome is the prosperity of people.

According to Mardiasmo, to minimize the dependency toward the funding of central government, the regional government should be provided with regional autonomy and discretion. The crucial step that must be done to improve the revenue of regional tax is by measuring the potential revenue of real regional taxes of the region, so the increase in regional tax capacity can be revealed. The improvement of tax capacity is basically the optimization of regional income sources.

In principle, good regional taxes have to be able to meet two criteria. First, the regional taxes should provide sufficient income for the region in accordance to the level of fiscal autonomy conceived by it. Second, regional taxes should have clear impact on fiscal responsibilities which owned by the related regional government.

In concept, there are some basic thoughts about the policy of the BPHTB which was a central tax that is delegated to a regional tax, namely

- a. The BPHTB is feasible to be determined as a regional tax.

The BPHTB fulfills the criteria and principles of good regional tax, such as:

- Local-origin tax objects
  - Immovable tax objects
  - There is a close relationship between the taxpayers and the parties who relish the tax revenues (the benefit-tax link principle)
- b. Improving Locally-Generated Income (PAD)

The stipulation of the BPHTB as a regional tax will enhance the income/revenue derived from the region itself (PAD). This condition is different from the revenue of the BPHTB as the central government tax. Although the revenue of the BPHTB is then distributed toward the region, this revenue does not categorize as PAD but as a fiscal balance fund (profit-sharing fund) instead.

- c. Improving Local Accountability

By stipulating the BPHTB as the regional tax, thus, the policy of the BPHTB (object, subject, tariff, and basis of tax imposition) is implemented by the region and adjusted to the condition and the purpose of regional development. Similar to the collection of the BPHTB, it is completely done by the region so the optimality of the collection is depending on the will and capability of the region. Then, the collection of the revenue of the BPHTB is determined by the region (through the expenditure allocation process in Regional Budgeting). Thus, the region is responsible for any matters related to the collection of the BPHTB toward the local people and the people also have access to participate in the supervision of the use of the revenue of the BPHTB.

- d. Internationally Good Practice

In many countries, the BPHTB is arranged as a regional tax. Another argumentation that supports the delegation policy of the BPHTB into regional tax is associated with the local spending quality.

The basis of the collection of the BPHTB is the regional regulation and the arrangement in regional regulation has to be adjusted to the primary policy about the BPHTB which stipulated in Regional Taxes and Retribution Law, namely

- a. Tax object is the acquisition of land and building rights
- b. Some of the tax objects are not imposed by the Duty on the Acquisition of Land and Building Rights
- c. Tax subjects are individuals or agencies that own the rights over land and/or building.
- d. Taxpayers are individuals or agencies that acquire rights over land and/or building.
- e. The highest tariff of the BPHTB is 5%. Each region can determine the tariff of the Duty on the Acquisition of Land and Building Rights in accordance to the local policies as long as it is not more than 5%.
- f. The basis of the imposition of the BPHTB is Tax Object Acquisition Value (NPOP) and the date of the transfer of rights in the condition of tax payable of the BPHTB with the conditions as follows. The rate used to determine NPOP and NPOPTKP (Non-Taxable NPOP) and in the condition of tax payable of the BPHTB for various transaction of rights transfer are:

- If NPOP is unknown or lower than NJOP of Land and Building Tax (the Sale Value of Tax Object used as the basis of assessment of Land and Building Tax), NJOP of Land and Building Tax is the basis of the imposition of the BPHTB.
- Each region could implement different NPOP-TKP as long as it's lower from the amount that stipulated in Regional Taxes and Retribution Law

The collection of the BPHTB is done based on self-assessment system. The community members, as taxpayers are trusted to report and pay their own tax payable. It means that the responsibility over the duties to pay taxes to the state/government is entirely lies on the community members as taxpayers, while the government only performs investigation and supervision concerning the tax liability of each taxpayer. This principle means that the government entrust the community members as taxpayers to assess their own tax liabilities. Taxpayers calculate, pay, and report the tax payable of the BPHTB by themselves. In this kind of system, the payment of the BPHTB is required to be validated by the tax official to examine the validity of the payment that has been done. One of the elements that is needed to be evaluated is the basic validity of the imposition of the BPHTB, namely the NPOP, including the highest value between transaction value and NJOP for the calculation of Land and Building Tax.

### 3. RESEARCH METHOD

This research was a normative-empirical legal research, which was performed by searching and finding sources of law that relevant to the main problem studied. In this context, various sources of law that were available either primary, secondary or tertiary legal sources were used.

Primary law sources consisted of legislations at various levels, including laws, Government Regulation, Presidential Decree, *Qanun*, and others. Secondary law sources consist of law text books, law science journal article, draft legislation, and reports of legal research which analyze or explain secondary law sources. Secondary law sources are unbinding. In addition, to obtain complete data, interview was conducted with the respondents and informants from the parties of the related institution in Aceh Besar Region.

Tertiary law sources consisted of searching and finding primary and secondary law sources, including legal dictionary, legal encyclopedia, law journal index, and others either printed or electronic. These tertiary law sources were also not legally-binding.

### 3.1. Customs Policy For Land And Building Rights In Terms Of Optimization Of Original Income In Aceh Besar District

The collection of the BPHTB in Aceh Besar Regency is stipulated in Qanun Number 4/20110, concerning the Duty on the Acquisition of Land and Building Rights that enacted since January 1 2011.

According to Regional Revenue, Finance, and Asset Management Service of Aceh Besar Regency, the following data have been acquired as follows.

**Table 1. The Revenue of the Duty on the Acquisition of Land and Building Rights (BPHTB) in Aceh Besar.**

Regency		
Year	TARGET	REALIZATION
PERCENTAGE		
2011	Rp.2,500,000,000	Rp.969,778,205 38,79
2012	Rp.1,300,000,000	Rp.1,219.238,598 93,79
2013	Rp.1,800,000,000	Rp.2,891,338,618 160,63
2014	Rp.1,500,000,000	Rp.1,458,300,413 97,22
2015*	Rp.1,500,000,000	Rp.1,022,360,379 68,16

\* Data until July 2015

From the data in Table 1, it can be seen from 2011 to 2015, only Year 2013 that has reached the target and even exceeded the target. Furthermore, the revenue of the BPHTB in 2014 almost reached the target.

There were some underlying factors of the achievement, namely:

1. The allocation of NPOP-TKP, which stipulated in Regional Taxes and Retribution Law, is too high and NPOP-TKP of Aceh Besar Regency was stipulated in the lowest category in *Qanun*, IDR 60,000,000 (sixty million rupiahs) for each taxpayer, while in the context of the acquisition rights due to inheritance or the bequeathed grant that received by individuals in blood relationships in straight lineage upward or downward with the grantor of will includes wife/husband, the lowest NPOPTKP is set to be IDR 300,000,000 (three hundred million rupiahs). The high rate of NJOPTKP for Aceh Besar Regency which is located in rural area has caused a lot of tax payable due to very low value of the land market.
2. The Allocation of NPOP (Tax Object Acquisition Value) by using NJOP of Land and Building Tax. The land price in trading that determined in the deed of Sale and Purchase is different from the actual transaction price, because it tends to be lowered to prevent the tax, thus, in determining the NPOP of tax objects, people tend to use the

allocation of NPOP based on NJOP of Land and Building Tax. While from 2011 to 2013, Aceh Besar Regency still used the NJOP of Land and Building Tax, which was allocated by the central government when the Land and Building Tax was still categorized as central government tax and no longer compatible with the current market price.

Since November 2015, Aceh Besar Regency has adjusted the rate of NJOP of Land and Building Tax by increasing it to four classes based on the regulation of Aceh Besar Regent Number 29/2014, concerning the Classification and Allocation of the Sale Value of Tax Object as the Basis of Imposition of Land and Building Tax in Rural and Urban of Aceh Besar Region. This regulation is applied to optimize the revenue of PAD from the sector of the BPHTB.

This regulation was objected by the community. Due to low rate of NJOP of Land and Building Tax which is totally different from the actual market price, thus, a concrete step is taken to improve NJOP of Land and Building Tax into four classes that will eventually improve the revenue of the BPHTB. The improvement of NJOP of Land and Building Tax is only be conducted to enhance the revenue of the BPHTB but the imposition of Land and Building Tax in Rural and Urban areas does not improve because it is only stimulated with 35% of reduction. However, according to the research, this regent regulation has not been completely produce the NJOP rate that is close to transaction and market prices. For instance, in Lamduro Village of Darussalam District, the NJOP was rated in the amount of IDR 5,000/m<sup>2</sup> before the presence of this regulation. It becomes IDR 25,000/m<sup>2</sup> after the improvement while the land price in the area is valued as IDR 500,000/m<sup>2</sup>.

### 3. Lack of Human Resources

The interview with Muhardiman was conducted in Aceh Besar Regency, the number of HR is understaffed so the monitoring of market price and the transaction value of tax objects exist in the vast area of Aceh Besar cannot be conducted, even more in the remote area. The tax authorities have attempted to solve the issues by implementing verification toward Tax Due Notification Letter (SPPT) of the BPHTB tax by obligating taxpayers or Land Deed Official (PPAT) or temporary Land Deed Official to come to Jantho. Due to its vast area, the obligation to bring the Tax Due Notification Letter (SPPT) of the BPHTB for verification is imposed to temporary Land Deed Official. Thus, there is a good coordination between the involved parties in transfer of rights over land and building. Before 2014, when the community wants to pay the BPHTB, they never conduct verification to DPKKD, based on the interview toward T. Miswar Amri, the finance department staff of Regional Revenue, Finance, and Asset Management Service, it was stated that the verification process has never been conducted before 2014 due to the remote location of DPKAD Office of Aceh Besar.

4. The awareness and the obedience of people to pay taxes as well as the fairness in completing the payable taxes are very minimum.

People tend to reduce the transaction and market prices of each transfer of rights over land and/or building, the purpose is to not paying the tax or avoid high amount of tax. In Aceh Besar Regency, before paying the BPHTB, in terms of transfer of rights, people are obligated to make a signed statement letter, this policy is implemented by the government of Aceh Besar Regency for the people to not manipulating the actual transaction price and taking any risks if there is any tax evasion.

5. Lack of understanding about discretion.

Although in Regional Taxes and Retribution law, the discretion is given to regional government to determine the tariff and NPOP-TKP based on each region condition, however, in the actual circumstances, every sample area on its *Qanun* uses the tariff and NPOP-TKP which exactly the same with what stipulated in Regional Taxes and Retribution Law. According to the interview toward the Head of Revenue Department of DPKAD of Aceh Besar, the change of tariff does not has to be done because it is already compatible with the Law provision, what needed is the control and verification of the amount of tax payable but it has to be done properly.

6. Lack of monitoring/supervision toward Land Deed Official or temporary Land Deed Official. To date, the supervision has only been performed through the report delivered monthly by Land Deed Official and temporary Land Deed Official, as stipulated in Article 92 verses (1) and (2) of Regional Taxes and Retribution Law. The law stipulates that:

1. Land Deed Official/Notary and head of the office in charge of state auction services shall report the drawing up of deeds or minutes on Acquired Rights on Land and/or Buildings to the Regional Leader the latest on the 10th of the following month
2. Procedures or reporting by the officials as referred to in paragraph (1) are regulated by the Decree of Regional Leader

Overall, it can be concluded that the factors hindering the realization of the revenue of the BPHTB to reach the target are:

1. Lack of socialization regarding the BPHTB to the community.
2. Minimum level of obedience and fairness of the community in paying taxes.
3. The allocation of NPOP of the BPHTB is more based on NJOP of Land and Building Tax.
4. Lack of supervision toward the involved parties in the process of transfer of rights over land and building, therefore, strict sanctions are required.

5. The calculation of the BPHTB is not originally using self-assessment system.
6. Lack of understanding of the formulator of *Qanun* regarding the principle of discretion in Regional Taxes and Retribution Law.

Besides the factors previously mentioned, what have caused minimum revenue of the BPHTB in Aceh Province was low potential of taxes. For instance, in Aceh Jaya Regency, Aceh Besar (remote area) and Pidie Jaya, the transaction values are mostly below NPOPTKP, that is IDR 60,000,000.

According to the interview with T. Irwansyah, Land Deed Officials cannot be responsible for the land price that agreed by parties as the transaction price of sale and purchase. However, Land Deed Official are mostly blamed when the revenue of the BPHTB in a region became very low, although, in his opinion, the determination of transaction and market prices are completely the rights of the related parties. Land Deed Officials only write down the price conveyed by the parties and is not responsible for the validity of the price. According to him, Land Deed Officials do not have a duty as the appraisal of land price.

In the process, Land Deed Officials have a very important role in the collection of the BPHTB because notary/Land Deed Officials are the public official related to the sale and purchase transaction of land. The deed of the transfer of rights of land and/or building will be signed if the taxpayers fully pay the tax payable of the BPHTB and submit the evidence of tax payment.

The collection of the BPHTB employs self-assessment system in which the taxpayers calculate, measure, and pay and report the tax payable by themselves in reference to *Qanun*. By providing the rights to taxpayers to calculate the amount of their own taxes, the revenue of the BPHTB will be highly affected. The self-assessment system is highly affected by the high and low awareness of the community (taxpayers) regarding the payment of tax. There are regions whose people have low awareness so it is really difficult to manifest the tax liability. The dissemination toward the community is required because the level of knowledge and awareness of the people regarding the BPHTB is lacking. Therefore, the awareness will increased when proper information is delivered, thus, the community will use the information responsibly and properly.

According to Nurdhani, the most important matter to enhance the revenue of BPHTB as PAD has to be done by the regional government by increasing the rate of NJOP of Land and Building Tax on each regency/municipality of Aceh Province. In Aceh Province, the land market price is different compared to the NJOP of Land and Building Tax for the region.

In practice, when the transaction price is unknown or too high, thus, NJOP of Land and Building Tax is used as the reference. Updating NJOP by considering the

compatibility of land price and market price is necessary to produce NJOP rate which is closer to the transaction price. Therefore, taxpayers will no longer be able to manipulate the transaction price of land and/or building.

In collecting taxes, Land Deed Officials only run their duty as ordered by laws. In article 91 (1) of Regional Taxes and Retribution Law, it is mentioned that Land Deed Official/Notary can only sign deeds on transfer of rights on land and/or building after the taxable subject submits evidence of payment of taxes. Thus, Land Deed Officials are not responsible for the amount of tax payable of taxpayers.

Regarding the matter of basis of tax imposition, namely NPOP which is based on transaction and market prices, good coordination and cooperation are required between the related parties regarding the BPHTB, namely Regional Government, Land Deed Officials, and National Land Agency (BPN) for determining the NPOP to be in accordance with the actual price. According to the research results, NJOP of Land and Building Tax tends to be used in determining NPOP. Although based on Article 87 verse (30) of Regional Taxes and Retribution Law, it is mentioned that if the acquisition value of Tax Object in the forms of transaction or market value is unknown or lower than the NJOP, NJOP of Land and Building Tax is the basis of imposition that be used for Land and Building Tax occurs in the acquisition year.

The factor of high NJOPTK becomes an issue conveyed by Aceh Jaya, Pidie Jaya, and Aceh Besar Provinces. Low revenue of the BPHTB in the region has been caused by low potential of taxes in which the transaction value and market price are mostly below IDR 60,000,000 (sixty million). Therefore, those regencies demand the revision of Regional Taxes and Retribution Law, the lowest allocation of NJOPTKP is not IDR 60,000,000 but based on the local conditions. If Regional Taxes and Retribution Law is revised, the changes should not incriminate low-class people, the effort to reach high revenue of the BPHTB should not add more burden on the people.

According to the report of Ministry of Finance and Directorate of Regional Taxes and Retribution, NPOP-TKP aims to facilitate the low-income people to be able of handling the certification of land ownership without being imposed by taxes. Positive impacts for the region is expected from the facilitation of people in handling the certification of land ownership, such as improving the administrative order of land and/or building ownership which will ease the dispute resolution and the collection of Land and Building Tax of rural and urban areas, then, improving the access of the community toward funding sources because the certificate can be used as the collateral in Banks to receive business capital loan. These impacts will accelerate the regional economic growth and the prosperity of people.

According to Anwar syahdat et al., 60 million, as the allocation amount of NPOP-TKP, was based on the

consideration that the price of very simple houses (type 21/36) when the Duty on the Acquisition on Land and Building Tax was collected by the region (in 2010) is around 60 million rupiahs. It is expected from this policy that Indonesian citizens who purchase very simple houses (type 21/36) will not be imposed by the BPHTB. This condition is in line with the central government's policy which provides many facilities for the ownership of 21/36 type of house in the forms of special assistances in the domain of Value Added Tax (VAT) and certificate management.

Regarding the principle of discretion stipulated in Regional Taxes and Retribution Law, the expectation is that the regional government could accommodate the predetermined matters, 5% of the allocated tariff should be set differently in *Qanun*, i.e. by regulating different tariffs based on the category of rural and urban lands or agriculture or non-agriculture land. Therefore, there will be a variation of tariff which is compatible to the land characteristics. The discretion concerning tariff setting is given to every regional government to prevent high tariff setting of tax that might emerge excessive burden for the community.

#### **4. CONCLUSION AND RECOMMENDATION**

##### **4.1. Conclusion**

Based on the conducted research, the collection of the BPHTB has not been running optimally, as indicated by the realization of revenue of the BPHTB in 2012, 2013, 2014 and 2015. Although in the related Law, the BPHTB is given with the discretion in setting the tariff, however, all *Qanun* accommodates 5% tariff.

The collection policy that should be performed to enhance the revenue of the BPHTB is by implementing changes on the BPHTB mentioned in *Qanun*, especially the articles regarding tariff, in which the adjustment of tariff (reduction) is required and the gradation of layer based on the pre-determined criteria of land should be formulated. Land will be divided based on its classes in which the category of urban and rural lands as well as agriculture and non-agriculture lands will be differentiated based on the geographic conditions of each region. Regarding land criteria, the implementation procedure from the BPHTB of *Qanun* can be issued through the Regulation of Regent

##### **4.2. Recommendation**

The BPHTB is self-assessment, in which the tax is calculated, paid, and deposited by taxpayers themselves. Therefore, the Regional Government as the administrator of the BPHTB should supervise the transfer of ownership over land and building property along with the supervision of payment through verification. Because the allocation of NPOP of the Duty on the Acquisition of Land and Building

tends to use NJOP of Land and Building Tax, thus, the assessment activity and the adjustment of land price on each regency should be conducted to optimize the revenue of the BPHTB, and the adjustment of price increase of NJOP of the BPHTB should be done every three years through the Decree of Regent. The optimization of other activities that must be performed is regarding the BPHTB of *Qanun*, especially the article about tariff in which the adjustment (reduction) has to be conducted and the gradation of layer based on the pre-determined criteria of land should be formulated.

#### **REFERENCES**

- [1] Waluyo and Wirawan B. Ilyas, *Perpajakan Indonesia Pembahasan Sesuai dengan Ketentuan Perundang-undangan Perpajakan dan Aturan Pelaksanaan Perpajakan terbaru*, Salemba Empat, Jakarta, 2002, page. 5
- [2] Article 1 number 10 of Law No.28/2009 concerning Regional Taxes and Retribution
- [3] Prakosa, *Analisis Pengaruh Dana Alokasi Umum (DAU) dan pendapatan Asli Daerah (PAD) terhadap Prediksi Belanja Daerah: Empirical Study in Central Java Province and Yogyakarta Special Region*, 2004, page. 2
- [4] Richard. Bird, *Subnational Revenue: Realities and Prospect*". Paper delivered in Intergovernmental Fiscal Relations and Local Financial Management held by The World Bank Institute, on April 17-21 2000 in Almaty, Kazakhstan Almaty, Kazakhstan World Bank, 2000
- [5] Anwar Syahdat et al., *Tinjauan Pelaksanaan Pengalihan Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB) Menjadi Pajak Daerah*, Ministry of Finance of Republic of Indonesia, General Directorate of Financial Balance, Jakarta, 2011, page. 3-4.
- [6] Soerjono Sukanto and Sri Mamudji, 1985, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta, CV Rajawali, page. 14-15.
- [7] Sanusi, 2010, "Penelusuran Dokumen dan Informasi Hukum di Indonesia," *Jurnal Ekonomi dan Pembangunan* Vol.1 Number 1 July 2010, page. 57-70.