

Implementation of Income Tax Imposition for Equitable Grant Recipients

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ABSTRACT--Tax is a mandatory contribution to the state owed by individuals or entities that are coercive based on the law, with no direct compensation and used for the country's needs for the greatest prosperity of the people. Tax arrangements must be based on Law in accordance with Article 23 of the 1945 Constitution which reads Taxes and other levies that are coercive for the purposes of the country are regulated by law. In carrying out the imposition of tax collection in the implementation community there are some who are not fair, in particular the collection of income tax on the transfer of land rights from the grant transaction, for the first degree is not subject to income tax but based on the Regulation of the Director General of Tax Number PER-30 / PJ / 2009, other than the degree First, it's still worn. With the application of this tax it turns out that to the second degree where there is still blood relations with the Grant Providers, they are still subject to tax, thus there is no sense of justice because there is a contradiction in tax regulations between the Tax Law and the Director General of Taxes Regulations regarding taxation in tax Grant recipient.

Keywords: income tax imposition, grant recipients, fair

I. INTRODUCTION

Tax is a compulsory levy paid people to the state and will be used for the benefit of the government and the general public. People who pay taxes will not benefit from direct taxes, because taxes are used for public purposes and not for personal gain. Tax is one source of government funds to carry out the construction, both central and local governments. Taxation can be imposed due to be implemented by legislation.

Understanding tax, according to Prof. Dr. H. Rochmat Soemitro SH; Taxes are the contributions of the people to the State Treasury by law (enforceable) with no lead gets services (cons achievement) directly demonstrated and used to pay for general expenses. The definition was later corrected to read as follows: Tax is the transition of wealth from the people to the State Treasury to finance routine expenditure and surplus used for public saving which is the main source to finance public investment.

Law No. 7 Year 1984 on Income Tax (VAT) in effect since January 1984. This Act has been amended several times and the last time amended by Law No. 36 of 2008.

Income Tax Act (VAT) Income Tax set against the subject taxes with respect to income received or earned in the tax year. The tax subject is taxed when you receive or obtain income, the income tax law called the taxpayer.

Tax is a mandatory contribution to the state owed by individuals or entities that are enforceable under the law, by not getting the rewards directly and used for the purposes of state for the greatest prosperity of the people. Tax arrangements should be based on the Act in accordance with Article 23 of the law of 1945 which reads Taxes and other coercive for the purposes of the state governed by law. In the imposition of taxation in society pelaksanaannya there is no justice, in particular the collection of income tax on the transfer of land rights from transksi grant, to the degree the First is not subject to income tax but by DGT Regulation No. PER-30/PJ/2009, in addition to degrees The first remains charged.

Income tax (VAT) is one of several types of taxes, which is one of the main sources of state revenue for development, which aims to improve the welfare and prosperity of the people. Income tax (VAT) stipulated in Government Regulation No. 34 of 2016. Where in any transfer of rights carried out by the taxpayer will be subject to income tax, but there is a transfer of rights that are exempt from the imposition and collection of income tax as stipulated in DGT Regulation No. 30/PJ/2009, the removal of the reasons for inheritance and grants for blood relatives in a straight line.

Taxation of this income, please note some of the problems that arise. The problem, namely First, how the Income Tax on inheritance and grants in the transfer of rights to land and buildings Secondly, is the obstacle in wearing the income tax on estates and concessions in the removal of land and buildings. The method used is empirical juridical approach, and this research is descriptive-analytic and collect data in the form of documents and field research studies

Therefore, in this paper describes the matters relating to the income tax that is contained therein is some discussion on the subject of taxes imposed on income tax, any taxable income as well as the mechanism of taxation and income tax collection.

II. FINDINGS AND DISCUSSION

(1) Tax function for the State and Society

Taxes have a significant role in the life of the state, especially construction. Taxes are a source of state revenue in the fund all required expenditures, including expenditures for development. So the tax has several functions, among others:

Budget Function (Function-budgetary)

Taxes are a source of financial income countries by collecting funds or money from the taxpayer to the state

treasury to finance national development or other state expenditures. So that the function is a source of state income tax which has the aim of balancing state spending with income countries.

Function Set (Regulatory Functions)

Tax is a tool to implement or regulate the state policy in the social and economic field. The set functions, among others:

- 1) Taxes can be used to inhibit the rate of inflation.
- 2) Taxes can be used as a tool to encourage the export activities, such as: tax the export of goods.
- 3) Taxes can provide protection or protection against the production of domestic goods, for example: the Value Added Tax (VAT).
- 4) Taxes can organize and attract capital investments that help the economy to be more productive.

Functions Equalization Tax (Distribution)

Taxes can be used to adjust and balance the revenue sharing with happiness and prosperity.

Stabilization Function

Taxes can be used to stabilize the condition and state of the economy, such as: to tackle inflation, the government established high taxes, so the amount of money in circulation can be reduced. Meanwhile, to cope with the economic downturn or deflation, the government lowered taxes, so the money supply can be increased and deflation can be overcome.

The fourth function is a function of tax on top of tax which are common in many countries. For the Indonesian government is currently more focused on the first two tax functions. The government institution that manages the state tax in Indonesia is the Directorate General of Taxation (DGT) under the Ministry of Finance of the Republic of Indonesia.

Responsibility for paying taxes are the community members themselves to meet those obligations, according to the self-assessment system adopted in Indonesia Taxation System. The Directorate General of Taxation, as its function is obliged to provide guidance, counseling, care, and supervision to the public. In carrying out these functions, the Directorate General of Taxation best efforts to provide public services according to the vision and mission of the Directorate General of Taxation.

(2) Why tax Income tax on other than first degree different from his Imposition of the first degree?

In the classification of degrees Heirs

According to the Civil Code, there are two (2) ways to get the inheritance, which raised also two (2) kinds of heirs, namely, heir menurut law or heirs ab intestato, and heirs by the wills testamentair (testamentair erfrecht)

Heirs according to law, has been described in Article 832 paragraph (1) of the Civil Code that according to law the right to be heir is, the family of flesh, both legitimate, and outside mating and husband or wife which live the longest, all according to the rules listed below.

Thus, according to the legislation that inheritance can take place because of blood ties (by blood) and because of the marital relationship. They included the family of flesh with inheritance is; children or descendants, father, mother, grandparents, and ancestors to the top, relatives or descendants, uncle, aunt or their offspring, while their husband or wife is having a relationship with inheritance because of perkawinan.¹⁶¹ Menurut old provision that widowed rarely inherit from the deceased husband or wife. It is felt less fair because it was the legislators to make changes to Article 852 of the Civil Code, then appended to Article 852a. In the Netherlands, the case is based on the S 1935 No. 486 and entered into force on 1 January 1936.

In the Civil Code was known to have four (4) categories heir turns right to inherit, with the understanding if there are no heirs first group, then the heir of groups other does not have the right, on the contrary, if the heirs first group there is no heir class both entitled to and so on. For details into four groups mentioned heirs, namely:

Heirs group I; consisting of a husband or wife who lived the longest, and their children or descendants on condition entitled to inherit first. The class I heirs stats in accordance with Article 832 paragraph (1), 852 and 852a of the Civil Code.

Heirs of class II; Consisting of parents heir namely, the father and mother; brothers, or their descendants to the extent permitted by law such restrictions described in Article 861 of the Civil Code which is to a degree the sixth except in case of inheritance for replacement premises (Article 844KUHPerdata) The heirs of this class is set in accordance with the provisions of Article 854 , 855, 856 and 857 of the Civil Code.

Heirs of the second group is the case blaming or deviation from the principle de naaste in het Bloed erf het goed (family closest to heirs entitled to inherit the testator), because in the second group, where the father and mother which is the family of flesh in a straight line degree first together into one group with the brothers by blood heir who is in the line of second degree laterally so that they appear jointly inherit. But even in putting the father and mother in one class with the relatives of the testator, and the principle of incest nearby criss, but in determining what each (second class) by legislators principle de naaste in het Bloed erf hed goed remain to be addressed so that mom and dad still be given priority.

Heirs group III; consists of a grandfather and father or grandmother in a line or so to the top. The group's heir set under Article 853 of the Civil Code. In group three is the case this happens what is called division (kloving) is actually between the paternal and maternal line, in the third group, it is not known with succession change place, as represented explicitly stated in Article 843 of the Civil Code that, "Turn to family incest in the line deviates upwards. Close family members in the second line, put aside all the family in further".

Heirs Group IV; consists of a family of flesh in addition to the more distant straight (uncle and aunt from the paternal and offspring, uncle and aunt of the mother

and offspring within specified limits). The limit is contained in Article 661 of the Civil Code which, up to six degrees except in cases where their replacement. Replacement fourth place in the group is the case not automatically, unless the specific requirements that must be fulfilled (Article 845 of the Civil Code). The provisions concerning the classification of the four heirs (Class I, II, III and IV) is once again an orderly sequence in receipt of the estate, means further groups covered by groups that are closer, are in each class of people who are closer degree of relationship with the heir to close for those who relationship to the deceased further. Provisions concerning classifications heirs and the principle that the heirs of the nearest degree of relationship with the heir to the heir to close the other (further) only apply to inheritance by the law (inheritance ab intestato).

Understanding Grants

In the transition of one's possessions in addition to buying and selling process is no process of transition property or possessions of a person that is through grants or donated property or the object to the person who enumerated by the grantor could have blood relations or absence of blood relations.

Grant is giving one person to another during his lifetime. Grants are legally binding on the grantor (donator) and gives the result since donator accepted by the grantee.

Grants should be done when the grantor and grantee still alive. If, the grantor has died, all grants have been done, then the grant is still valid.

Laws regarding grants set out in the Code of Civil Code (Civil Code). Grants specifically named in Article 1666 to Article 1693, which states that:

"Grant is an agreement by which the donator, at the time of his life, freely and irrevocably, handed some object for the purposes of the grant recipient to take delivery of it."

According to Article 1666 of the Civil Code grants a unilateral purposes where the grant is done for free, which means it does not require any payment or compensation in any form. Grants have been given can not be withdrawn by the grantor.

Provisions Grant

In the Act which describes a grant, there are some provisions that govern the grant. These provisions are important for us to know because there is a legitimate requirement of a grant can be done.

Moreover, it also set the rules concerning the withdrawal of the grant if there are conditions which met in grants have been made, namely:

- 1) The provisions of Article 1672, in the grant can be agreed that the grantor is entitled to take back its grant if the done dies first. With the provisions, such as the grant agreement is only allowed if it's donator own interests, as stated in article 1672.
- 2) The provisions in Article 1667, grants can only be done on an existing object.

- 3) The grant must be on notarial deed (Article 1682).
- 4) The provisions in Section 1678 grants between husband and wife should not be done (prohibited).
- 5) The provisions in Article 1688, stated that the grant can be withdrawn if:
 - a) Non-compliance with the terms by which the grant was made,
 - b) If the grantee guilty to perform or assist in the murder of donator or any other crimes against the donator,
 - c) If the done refuses provides a living allowance to the grantor, until then donator impoverished.
- 6) Authorization to receive grants must be an authentic deed.
- 7) Grants relating to land shall be expressed in an authentic deed made Land Deed Official (PPAT).

Provisions Regarding Grants Tax and How to Count them

Grant is a gift from one person to another. Therefore, the acceptance of the grant could be called as income tax and include categories of objects.

Actually, not all grants in the category of tax. There is a reception endowments not be subject to tax, there are also grants to be subject to tax, so that the recipient is required to pay income tax (VAT).

According to Article 4, paragraph (3) letter a of the Income Tax Act 1984 [Amendment 2008], some kind of acceptance that was not included in taxable income are:

Grant In Aid or Contribution Form

Assistance grants or donations, including zakat received by amil zakat board or other amil zakat institutions established or approved by the government and received by recipients who are entitled or religious donation required for the followers of recognized religions in Indonesia, received by religious institutions established and approved by the government and received by recipients who are entitled, the provisions stipulated by or based on government Regulation.

Grant In The Form Of Treasure

Grants in the form of property received by the family of flesh in the direct lineage of one degree, religious bodies, educational institutions, social entities including foundations, cooperatives, or private persons who run micro and small enterprises, the provisions stipulated by or based on Regulation of the Minister of Finance; so long as no relationship with effort, work, ownership, or control between the parties concerned.

A description of the above description about the kind of reception that are exempt from tax object further elaborated in the Minister of Finance No. 245/PMK.03/2008, where the sound of PMK No. 245/PMK.03/2008 are:

Endowment, support, or donations received by:

- 1) By blood in a direct lineage one degree;
- 2) Religious bodies;
- 3) Educational institutions;
- 4) Charities including foundations and cooperatives;
- 5) An individual who is running the micro and small enterprises, are exempt from the tax object Income.

Fifth person or entity referred to in PMK No. 245/PMK.03/2008, if it receives a grant it is not subject to income tax.

If there are grants that beyond these limits there must be categorized as a tax.

However, not all of the five points above grants are not taxable income and will be free of tax.

There is an explanation and criteria for each point, making it the fifth individual or entity shall be considered not to tax or included in the tax.

A detailed explanation of each point is:

- 1) By blood in a direct lineage one degree is the parent and child birth. So, if grant given to the child of, or grants to parents are not objects of income tax. But if the grants received are from siblings, foster child, in-law, in-laws, or any other person that is the object of income tax.
- 2) Religious bodies, religious bodies whose activities are only to take care of places of worship and/or conducting religious affairs without seeking profit. If the agency is aiming for profit, then it could be subject to income tax.
- 3) Educational institutions are educational institutions whose activities solely to provide education without any profit. But if the agency's education activities aimed to seek personal gains for founders or other parties, it can get into the object taxes
- 4) Charities in this case is a foundation or a cooperative whose activities are solely for conducting a non-profit or non-profit, inter alia:
 - a) Further health maintenance person age (nursing homes);
 - b) Handling orphans, child or displaced persons, and children or people with disabilities;
 - c) Compensation and/or assistance to victims of natural disasters, accidents, and the like;
 - d) Providing scholarships;
 - e) Environmental preservation;
 - f) And other social activities, which are not for profit.
- 5) An individual who is running micro and small businesses are the people who own and run the business and meet the following criteria:
 - a) Have a net worth of at most Rp 500,000,000 (five hundred million rupiah) not including land and buildings; or

- b) Having annual sales results Rp 2.500.000.000 (Two billion, five hundred million rupiah).

So, there are clear criteria, which does not become the object of which is subject to tax and taxable income due to receipt of grants.

So how do the tax calculations?

How to Calculate Tax Grant

The formula for calculating the tax Grants are:

Tax Grant = (SVTO - NPOPTKP) x 5%

Information: SVTO = taxable value; NPOPTKP = Earned Value Tax Object Not Taxable

To facilitate the understanding of the grant of tax calculation, we will use the following example:

Dion is the brother of Rini. Dion wants to leave a legacy in the form of the house to his brother, Rini.

SVTO at home given Rp 200 million, while its value is NPOPTKP Rp 60,000,000. Because of their relationship by blood, but purely horizontal then the grant will be taxed. The amount of tax would be imposed on interest are:

Taxes = (SVTO - NPOPTKP) x 5%

Taxes = (Rp200,000,000 - USD 60,000,000) x 5% = Rp7,000,000

According to Article 1666 of the Civil Code grants are the agreement with the grant giver, at a time when his life, freely and irrevocably, handed some object for the purposes of the grant recipient to take delivery of it.

So it is not proper to taxable income, because in the intermediate goods by way of grant no added value of the grantor.

For the calculation of the grant to the degree whatever there should be no difference in the value of the imposition of the (Value Object Not Taxable (NOTPKP) it, so if the grant providers want to donate or provide goods free of charge to the first degree or second or third parties that are not there blood relationship even if there is no income tax (VAT). Because of his philosophy income tax there which receive money while in the grant process no earning (money), benefits, or services. If the grantee pays tax on Acquisition of Land and Building (BPHTB) is reasonable because there accretion of ownership of objects or goods.

Imposition of Income Tax for First degree without any LCS (Pay Objection Letter) to the STO to be right by the grantor. Rules on Pay Objection Letter (SKB) to the STO must be evaluated

III. CONCLUSION

Conscious people should pay his conscious society in taxes, because tax money paid by members of the public will be returned to the community for the development and progress of a country. Taxes are a source of income anggarapa State for the benefit and prosperity of a nation

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