

# Mastery of Floating House Planted in Waters Reviewed by Object of Land and Rural and Urban Building Taxes According to Law Number 28 Year 2009 Concerning Regional Taxes and Regional Retributions

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## ABSTRACT

The existence of floating houses in Indonesia has existed since the Dutch colonial era. Floating houses are scattered in several provinces in Indonesia, such as in Sulawesi, Kalimantan and Palembang. This floating house stands with a construction system planted on water land controlled by the state. Article 1 Paragraph (39) of the Regional Tax and Retribution Law defines a building, not only a building that stands on land in general, but also a building that can stand on water. Every control when the object is embedded in the earth or the surface of the land, it is clear that someone who controls the object embedded in the earth, so that the floating house that is embedded in the water does not belong to the people anymore, therefore the floating house which is embedded in the land of waters clearly controls and the person must pay taxes or be taxed by law. In this study the authors used a normative legal research method, with a statutory approach, by examining library materials (literature study). Legal materials used in this research are primary legal materials, secondary legal materials and non-legal materials. From the research that has been done, it can be concluded that the definition of a floating house is the object of Rural and Urban Land and Building Tax because it is attached to the earth so that the land and / or buildings that have been controlled, owned and / or used by private persons.

**Keywords:** *floating house, local taxes and regional levy, land and building tax for rural and urban areas*

## 1. INTRODUCTION

Earth, water and space contained therein are natural resources that have an important role in humans and the utilization of the functions of the earth, water and space and what is contained therein is intended to achieve prosperity for all Indonesian people. In the 1945 Constitution Article 28 D Paragraph (1) it is stated that "Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law". This provision also applies in the land sector. The provisions of the government's authority to regulate the land sector are rooted in Article 33 Paragraph (3) of the 1945 Constitution which confirms that the earth, water and natural resources contained therein are controlled by the state to be used for the greatest prosperity of the people. the most important thing is the earth or the land

Land/earth has a very important meaning in human life because land has a dual function, namely land as a social asset and land as a capital asset as a social asset. capital factor in development for a sustainable economy. As a capital asset, land has grown as a very important economic

object for a country as well as a commercial material and object of speculation. On the one hand, land must be utilized and utilized to the greatest extent possible for the welfare of the people physically, mentally, fairly, and evenly, while on the other hand its sustainability must also be maintained [1].

In the earth, it has been regulated in Article 1 paragraph (4) of the Basic Agrarian Law in the sense of the earth, in addition to the earth's surface, including the earth's body below it and those under water, so that the earth does not only have a meaning limited to land but the earth's body that is in the ground. under the water[2].

In conducting a state income, the state stipulates the existence of a tax for each subject who benefits from a certain object. The tax collected is obtained based on Article 1 paragraph (1) of Law Number 28 of 2007 concerning General Provisions and Tax Procedures (KUP). Taxes are: "compulsory contributions to the state owed by individuals or entities that are coercive under the law, without receiving direct compensation and are used for the purposes of the State for the greatest prosperity of the

people" The tax paid by the community is used as much as - The amount is for the needs of the community itself, both for development, or other economic developments.

The definition of tax according to Prof. Dr. A. Ansari Ritonga, SE. SH. MH., quoting the opinion of Prof. Dr. Rochmat Soemitro, SH in his book is as follows:

"People's contributions to the state treasury (transfer of wealth from the private sector to the government sector) are based on laws that can be enforced by not receiving reciprocal services that can be directly shown and which are used to pay for general government expenditures"[3].

There are two tax functions, namely the budgetary function as a source of state revenue and the regulatory function or regulating function intended through the imposition and collection of taxes to regulate policies so that there is harmony between fiscal policy, monetary policy and real sector policies so that they are not distorted, so as to realize justice and economic stability[4].

The form of contributions obtained from the people in the form of taxes consists of several types of taxes, depending on the determination of the region and location of the tax. One of them is the Rural and Urban Land and Building Tax (PBBPP). These provisions are regulated in Law Number 28 of 2009 Number concerning Regional Taxes and Regional Levies before the Law Number 28 of 2009 the provisions are regulated in Law Number 12 of 1985 concerning Land and Building Taxes, amendments to Law Number 12 of 1985 concerning Land and Building Tax.

In Article 77 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, it is stated that the objects of rural and urban land and building taxes are land and/or buildings that are owned, controlled and/used by individuals or entities, except for land and/or buildings. used for plantation, forestry and mining business activities. Earth and buildings have an important role in life because they provide benefits for humans who master them. People or entities that control and benefit from the earth and buildings can be said to be the subject of the earth and buildings, just like the earth that many people can feel and benefit from as examples of residences, offices, places of worship and others[5]. Article 1 Paragraph (39) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies (UU PDRD) states that the definition of a building is a technical construction that is permanently planted or attached to land and/or inland waters and/or sea[6].

This understanding makes the definition of a building, not only a building that stands on land like buildings in general, but also a building that can stand on water. Article 77 Paragraph (2) of the PDRD Law also states that what is included in the definition of a building are:

1. Environmental road which is located in a building complex such as a hotel, factory and its emplacement which is an integral part of the building complex;
2. Toll roads;
3. Swimming Pool
4. Luxury fence
5. Sports Grounds
6. Shipyards, docks;
7. Luxurious garden

8. A place to accommodate oil, water and gas refineries, oil pipelines; and

9. Tower.

Of the types of buildings that exist in the PDRD Law, one of the buildings that is widely used by humans is the house. A house in the Big Indonesian Dictionary (KBBI) is a building that is used as a residence and also a building in the form of a building[7]. In Law Number 1 of 2011 concerning Housing and Settlement Areas, it is also stated that a house is a building that functions as a suitable place to live, a means of fostering a family, a reflection of the dignity and worth of its inhabitants and an asset for its owner[8].

From these two meanings there are similarities regarding the house, namely the house as a place to live. Housing is a collection of houses as part of settlements, both urban and rural, which are equipped with infrastructure, facilities and public utilities as a result of efforts to fulfill livable houses. While the residential area is part of the environment outside the protected area, both in the form of urban and rural areas, which functions as a residential environment or residential environment and a place for activities and activities that support livelihoods and livelihoods. As with buildings on land, so do houses. Houses located in the water besides houses on stilts there are also floating houses. The term floating house has never been regulated in law, but in general the term floating house is for a building that is in water and floats because either it uses a floating system or is used in construction attached to a water, basically a floating house. These are found both in rivers and in lakes.

Rivers and lakes have ecological value as a means of sustaining sources of biodiversity. In an economic sense, rivers can be used as a means of transportation, as a source of water for both industry and households, as a means of urban drainage or as a waste disposal. There are many settlements on water in Indonesia. Some communities use a raft house system with constricted wood, bamboo and plastic drums as floats. Houses on the sand are made with different systems according to the water conditions.

Floating houses, apart from being used as a place to live for those who live in rivers, lakes, seas or other water areas. Moreover, it is possible that floating houses can be used as an alternative to the increasingly limited land for urban dwellings in the future due to population growth and also as a solution to overcome rising water levels[9].

This floating house can also be used as a place of business such as a place to eat in Bali. And in Kalimantan we can find the Lanting House on the Martapura River which is a traditional floating house in Kalimantan[10]. In Palembang there is a floating house that is used as a place to live, known as the Raft House[11]. Floating houses basically do not have a definite meaning because floating houses in each place have different constructions, a building that is not or attached to the ground surface, but uses floats on the surface of the water, whether the construction is attached to or planted in the waters or floats on the waters. So if it is related to the understanding contained in Article 1 Paragraph (39) of Law Number 28 of 2009 concerning

Regional Taxes and Regional Levies, it is stated that the definition of a building is a technical construction that is permanently planted or attached to land and/or inland waters and/or sea. Then we look at the definition of the word planted, which means "to put on the ground; put into the ground; suppressed". While the word attached has the meaning "very tightly attached when touched". Therefore, from the explanation above, a floating house which in terms of its construction is planted in waters, then the provision is included in the tax object as regulated in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, but if the floating house only floats and is not attached to the waters, then the provision is not included in the tax object. So if it is related to the understanding contained in Article 1 Paragraph (39) of Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions, it is stated that the notion of a building is a technical construction that is permanently planted or attached to land and/or inland waters and/or the sea. Then we look at the definition of the word planted, which means "to put on the ground; put into the ground; suppressed". While the word attached has the meaning "very tightly attached when touched". Therefore, from the explanation above, a floating house which in terms of its construction is planted in waters, then the provision is included in the tax object as regulated in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, but if the floating house only floats and is not attached to the waters then these provisions are not included in the tax object.

## **2. METHOD**

The research methods used in this study consists of:

### **2.1. Type of Research**

This research uses normative legal research. Normative legal research, which is another name for doctrinal legal research, is also referred to as library research or document study because this research is carried out or aimed only at written regulations or other legal materials. Normative legal research is legal research because legal research is always normative by using existing materials and approaches. In essence, research is carried out by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and non-legal materials. Therefore, the researcher will conduct a search on the laws and regulations related to normative rules and also the researcher will also conduct a search on the literature related to this research through books, journals, papers.

### **2.2. Types and Sources of Legal Materials**

Types of legal materials can be divided into 3 parts, namely primary legal materials, secondary legal materials,

and tertiary legal materials. In this study, the authors use legal sources, namely:

- a. Primary Legal Material  
The primary legal materials used consist of statutory regulations, official records and statutory treaties[12].
- b. Secondary Legal Material  
The main secondary legal materials are textbooks because textbooks contain the basic principles of legal science and legislation by scholars[13]. In this study, the secondary legal materials used include:
  - 1) Scientific books in the field of law
  - 2) Scientific journals in the field of law
  - 3) Papers in the field of law
- c. Non-Legal Material  
Non-Legal Materials are materials that provide instructions or explanations for primary and secondary legal materials. In this case, non-legal materials used include:
  - 1) Big Indonesian Dictionary
  - 2) Legal Dictionary.
  - 3) Data Collection Techniques

For researchers to obtain the data that researchers need and are considered relevant to the problem carefully. Because the main purpose of research is to obtain data, without knowing the data collection, you will not get data that meets the data standards applied. The data collection technique used is literature study, namely data collection by reviewing books, literature, notes, and reports that have to do with the formulation of the problem that the researcher examines.

### **2.3. Research Approach**

With normative research, the approach used in legal writing according to Peter Mahmud Marzuki is as follows[14]: a. Case approach b. Legislative approach (legal approach) c. Historical approach (historical approach) d. Comparative approach e. Conceptual approach (conceptual approach) In legal research, several approaches help researchers to obtain information from various aspects of the problem they are trying to find answers to. One approach in research used by researchers is the law approach. The statutory approach is an approach taken by reviewing all laws and regulations relating to the legal issues being handled[15].

### **2.4. Data Analysis Techniques**

Analysis is a description of all materials and data that have been collected and explained systematically. The explanation is explained logically according to the author's thinking.

There are several types of data analysis, but in this study the author uses qualitative data analysis techniques. Qualitative data analysis technique is a method of data analysis by grouping and selecting data obtained from field research according to its quality and truth and then

arranged systematically, which is then studied using deductive methods[16].

The method of thinking used in concluding is the deductive method, which is based on the basics of general knowledge (major premise) to examine a particular problem (minor premise) then a conclusion or conclusion is drawn from the two premises[17].

### 3. DISCUSSION

How is legal protection for residents who control floating houses planted in waters in terms of Rural and Urban Land and Building Tax Objects according to Law Number 28 of 2009 concerning Regional Taxes and Regional Levies

Law according to Hans Kelsen is a rule as a system of several rules (rules) that discuss human behavior, so that the law is not a rule (rule) but a set of laws (rules) that are related to each other in the form of a rule. system in this case someone. cannot study only one rule of law[18]. In terms of legal protection, some are preventive and some are repressive. Legal protection is basically a way to determine the actual law. some parties who need to file objections and the law is carried out repressively to make a problem look for solutions or seek legal certainty so that what happens is really part of the law. occurs by applicable law[19]. Basically the law is generally a rule or rule in life together with many people who are regulating and coercive and there are sanctions for those who violate it. Someone goes to a law graduate to solve the problem, so law graduates are often faced with legal problems, as legal experts are also part of solving and finding law on a particular problem, judges, prosecutors, lawyers, law lecturers, notaries, law bureau employees and various other legal institutions cannot be separated from the rule of law in seeking the law[20]. In its efforts, the law always adjusts individual interests with the interests of society and vice versa, seeks to find a sense of security and a sense of freedom for individuals and also protects society from individual freedoms. Considering that humans live and interact with each other, there will often be conflicts or tensions between individuals and or individual interests with society or vice versa, so the law tries to accommodate these tensions as well as possible. Law as a collection of regulations that have a general and normative content is said to be general because it applies to everyone and is said to be normative because it determines what to do and what not to do[21]. The law also provides legal protection where legal protection is given to the community to provide a sense of security to the community from the actions of arbitrary rulers and not by applicable law. Legal protection according to experts is:

- a. According to Philipus M. Hadjon, legal protection is the protection of human dignity and human rights inherent in legal subjects based on applicable law and sourced from Pancasila and the concept of the rule of law[22].
- b. According to Soetjipto Rahardjo, legal protection is a way to protect a person's interests by using the means of allocating power to them and one of its characteristics and

the purpose of the existence of the law itself is to provide protection for society [23].

In Law Number 1 of 2011 concerning Housing and Settlements that a house is a building where a family lives and is the property of its owner, in this case the house is not only defined as a place to live but also is defined as a place to establish a business which in this case is included in the definition of a building according to Article 77 paragraph (2) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, it has been stated that the definition of buildings includes:

1. Environmental roads located within building complexes such as hotels, factories, and their emplacements which are an integral part of the building complex
2. Highway;
3. Swimming pool;
4. Luxurious fence;
5. Sports venues;
6. Shipyards, docks;
7. Luxurious gardens;
8. Shelters/ refineries for oil, water and gas pipelines; and
9. Tower.

Buildings which in the sense of Law Number 28 of 2009 are often used for residential houses. In terms of understanding the house there is also the meaning of a floating house. the definition of a floating house, there are no applicable rules to give the meaning of a floating house itself, basically a floating house is a house built with construction on water, whether the house is not attached to or attached to the earth's surface, only relying on a storage system above the water surface but the house is also under construction, there are floating buoys that are attached, planted and permanently attached to the land or inland waters. So that it can be interpreted that not all floating houses are not attached to the surface of the land or water, there are also floating houses that are embedded in the ground or embedded in the waters [24].

In Indonesia, as in Bali, many floating houses are used for business activities or business activities which are usually in the form of restaurants [25]. In the case, for example, that in other districts there are floating houses in various cities or districts, there are floating houses for living, where on average the floating houses are submerged in water.

According to Boedi Harsono, the right to control over land contains prohibitions, orders or rights and obligations for someone who uses land that is judged. "Something" that is allowed, obligated and/or prohibited to be done is a benchmark for the distinction between various land tenure rights regulated in the relevant state land law [26]. The definition of control over land can be interpreted physically or legally and can also be interpreted privately or publicly. Found in someone who inhabits the land, for example the land owner uses or utilizes the land that is his right, not handed over to other parties. Every control over land, whether it's ownership of houses, floating house buildings, whether the objects are embedded in the ground and the building or on the surface of the land, it is clear that someone has control over the objects embedded in the

earth and the building, then the person is obliged to pay taxes on the objects in his control. as stated in Article 4 paragraph 1 of Law Number 12 of 1985 concerning Land and Building Tax, the subject who controls or who acquires the land is the subject who pays the land and building tax so that the tax is not proof of rights. However, taxes are used as physical control over a certain place so that the person who controls or benefits from that place is the person who is obliged to pay taxes on the object. In this case, each province or city or district has tax regulations in their respective regions, these regulations are made with their respective regional regulations so that taxes in each region vary depending on the respective regional regulations that govern.

And the residence inhabited by local residents based on local information and by the village that the residents living in the floating house do not pay land and building taxes because there has been no order or appeal from the Wajo district government to apply for land and building taxes.

Regarding the provisions of Lake Tempe, it has been regulated in the Regional Regulation of Wajo Regency Number 14 of 2016 concerning Management of Lake Tempe where there is a role for the community, precisely in Article 22 paragraph (1) to paragraph (2). that everyone can be directly or indirectly involved in lake management and everyone and legal institutions can play a role in implementing, monitoring and evaluating lake management programs. A floating house located in Lake Tempe, South Sulawesi, is included in the tax object, in contrast to a house that is not attached or planted in waters because it is not included in the Rural and Urban Land and Building Tax. In this case, the provisions of the Rural and Urban Land and Building Tax in the Wajo Regency area have been regulated in the Wajo Regency Regional Regulation Number 20 of 2012 concerning Rural and Urban Land and Building Taxes in this regional regulation only regulating land taxes. located in Wajo Regency. A floating house occupied by residents of Lake Tempe, Wajo Regency which has been legally designated as an object of land and building tax, in this case a floating house in the case of imposition of land and building tax objects is reaffirmed in Article 2 paragraph (1) of Wajo Regency Regional Regulation Number 20 of 2012 which states that in the name of Land and Building Tax in rural and urban areas, taxes are levied on land and/or buildings that are owned, controlled, and/or utilized by private persons, or legal entities, except for areas used for plantation, forestry, and mining activities.

In the event that Article 3 paragraph (1) of the Regional Regulation of Wajo Regency Number 20 of 2012 concerning the object of taxation has the same meaning and interpretation as Article 77 paragraph (1) of Law Number 28 of 2009 concerning the regulation of the imposition of tariffs and procedures for collecting floating house taxes which is located in Lake Tempe, Wajo Regency, is regulated in Chapter III concerning the Basis for Imposition of Tariffs, and Tax Calculation Procedures starting from Article 5 to Article 7 of the Regional Regulation of Wajo Regency Number 20 of 2012.

#### 4. CONCLUSION

The floating house located on the Tempe lake, South Sulawesi is included in the tax object so that residents who do not pay the object tax must pay taxes on the floating house in the Tempe lake. This is because the floating house located on the Tempe lake, if the floating house is technically built or permanently attached to the waters, it becomes the object of the Rural and Urban Land and Building Tax and must be subject to tax fees as referred to in Article 77 paragraph (1) of the Law. Number 28 of 2009 concerning Regional Taxes and Regional Levies states that the objects of rural and urban land and building taxes are land and/buildings that are owned, controlled, and/used by private persons or entities, except the area used. for plantation business activities, forestry and mining. In this case, based on Article 1 paragraph (4) of Law Number 5 of 1960 it is stated that in terms of the earth, in addition to the earth's surface, including the earth's body which is under it and is under water, a floating house located on the Tempe lake, Sulawesi South whose technical construction is permanently planted or attached to waters, including the meaning of the earth and including part of objects as regulated in Article 77 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. Different if the floating house is not attached or planted in the waters, then the object is not included in the Rural and Urban Land and Building Tax because the floating house only floats and does not include touching the earth, or housing which is usually in the form of a boat or ship which if you want to move around, then this provision does not include the object of Rural and Urban Land and Building Tax because it does not touch the earth. In terms of setting the imposition of tariffs and procedures for collecting taxes on floating houses located in Lake Tempe, Wajo Regency, it is regulated in Chapter III concerning the basis for imposing tariffs, and procedures for calculating taxes starting from Article 5 to Article 7 of Regional Regulation of Wajo Regency Number 20 of 2012.

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