



Analysis of the Imposition of Final Income Tax (Final Income Tax) and Duty for the Acquisition of Land and/or Building Rights (BPHTB Tax) in the Transition of Property Rights to Land in Gianyar Regency

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Abstract. Taxes related to the transfer of land rights are Final Income Tax (PPh Final) and Customs on Acquisition of Land and Building Rights (BPHTB tax), Exchange, and others as agreed between the parties. While the BPHTB tax is a tax that arises and must be paid due to the acquisition of land and building rights when making sales/purchase transactions, grants or property auctions in the form of land and/or public buildings, which are often overshadowed by the taxes that must be paid. Ordinary people only know about the payment of Land and Building Tax (PBB) and not a few are surprised when faced with mandatory obligations in paying Final PPh and BPHTB Taxes, although the percentage is not small but the amount is quite large. Furthermore, 2 (two) fundamental problems are formulated to be studied, namely: (1) How is the imposition of Final Income Tax (PPh Final) and Customs for the Acquisition of Property Rights on Land and/or Buildings (BPHTB Tax) in the transfer of ownership rights to land in Gianyar Regency. (2) Is the imposition of Final PPh and BPHTB Taxes in the transfer of land ownership rights in Gianyar Regency in accordance with taxation principles. This section also describes the purposes and benefits of writing, as well as the originality of the research as the work of the real author, and auctions. The rate for the imposition of Final PPh is 2.5% of the base of imposition while for BPHTB tax it is 5%. The transfer of rights through buying and selling is based on the agreed transaction value, Grants through the Sales Value of Tax Objects, Auctions through Auction values while Inheritance is Nil aka there is no obligation to pay taxes. Imposition of Taxes - These taxes are closely related to the application of the principles of Taxation.

Keywords: PPh · BPHTB · Transfer of Land Ownership

1 Introduction

Since the reform of the taxation system, the government has made taxes as state revenues to replace oil and gas products [1]. Taxes as the main source of state revenue are deemed

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necessary to continue to be improved so that development can be carried out with its own capabilities based on the principle of independence [2]. The government's policy to increase state revenues sourced from taxes is carried out through the expansion of taxpayers (WP), expansion of tax objects, changes tax rates, and law enforcement in the field of taxation. With the expansion of taxpayers and tax objects, all parties; state and business institutions (non-businesses) have an interest in knowing and understanding ways to calculate, report and deposit their tax obligations [3].

Tax is an obligatory contribution to the state that is owing by a person or entity that is coercive in nature based on the law, with no direct remuneration and is used for the requirements of the state for the maximum prosperity of the people [4]. Every tax imposition by the state, both by the Central Government and the Regional Government, must be founded on laws and implementing rules that may be applied by the community. A legal norm permits specific individuals to set legal norms or to apply legal standards [5] (legal norms empower specific individuals to set legal norms or implement legal norms).

Taxes connected to the transfer of rights to land and/or buildings (land and buildings if there are buildings on them) are the forms of Final Income Tax (PPh Final) and Customs for Acquisition of Rights on Land and Buildings (BPHTB), subsequently abbreviated as BPHTB Tax. Final PPh is a tax imposed on an individual or entity on the income he/she earns from the transfer of rights to land and/or buildings and income from binding sale and purchase of land and/or buildings and their amendments through the sale of grants, auctions, inheritance, exchange, and others as agreed between the parties [6]. Meanwhile, BPHTB tax is a tax that emerges and must be paid owing to the acquisition of land and building rights.

If the community and related parties are to abide by the application of Final PPh and BPHTB taxes on the transfer of ownership rights to land and/or buildings, then there must be a clear and strong legal basis for doing so. The allocation of the tax imposed is one of the sources of regional income in each province, district/city, which is why this law was enacted: to provide general government financing for the purpose of carrying out government tasks, both routine and development. As stated in the State Gazette of the Republic of Indonesia No. 188 of 2015, Income Tax on Income from Transfer of Rights to Land and/or Buildings, and Sale and Purchase Agreements on Land and/or Buildings, and their Amendments, are subject to Government Regulation of the Republic of Indonesia Number 34 of 2016 (hereinafter abbreviated as PP No. 34 of 2016).

Law No. 28 of 2009 on Regional Taxes and Regional Levies (hereafter referred to as Law No. 28 of 2009) was enacted in Jakarta on September 15, 2009, and it includes provisions for the BPHTB tax, which is a sort of district-city tax (State Gazette of the Republic of Indonesia Year 2009). State Gazette of the Republic of Indonesia, No. 5049, Supplement No. 130. As a Regional Tax, BPHTB tax arrangements are then delegated to the policies of each region which are outlined in the form of Regional Regulations (Perda) and BPHTB Tax Arrangements in Gianyar Regency, one of the regencies in Bali Province which the author made the research area experiencing the transfer of ownership rights to land is very high which in its implementation is determined through the Regulations Region No. 16 of 2010 (Perda No. 16 of 2010) which regulates the

fee for the acquisition of land and building rights. 16 of 2010 as a source of additional materials.

2 Method

This investigation adopted an empirical legal methodology. Because both primary and secondary legal sources are consulted to examine the issues at hand, this study adopts the juridical method to examining norms and *das sollen*. As opposed to this, the empirical method examines the law as *das sein*, using information gathered directly from the field to determine how the law applies to certain situations. Empirical law entails recognizing and theorizing law as an existing social institution inside a structured way of life. [7] Methods that apply broad theories or concepts to an individual data set in order to provide an explanation for that set or to demonstrate some kind of comparison or relationship between that sets are not part of this research strategy. This analysis combines a statutory approach with a sociological one in terms of its research methodology [8].

The researchers consulted a variety of primary and secondary legal sources, including the 1945 Constitution, the Civil Code (KUHP_{Perdata}), Law of the Republic of Indonesia No. 5 of 1960 Concerning Basic Regulations -principle of Agrarian Affairs (UUPA), and Law of the Republic of Indonesia No. 4 of 1996 Concerning Mortgage Rights on Land and Objects Related to Land. This is Law No. 28 of the Republic of Indonesia for 2009. It deals with Local and Regional Taxes and Levies. Secondary sources of law include things like academic books, articles, and studies.

Strategies for Analyzing Data Research data gathered from libraries and the field, then written or typed up to present in a report format. Data accuracy is reviewed and errors are repaired by returning to the original data source, which is why the report is then condensed, summarized, picked the major items, focused on the relevant things, and searched for themes and patterns. Data processing comes after editing. After the data has been processed, descriptive-qualitative analysis will be performed, and content analysis will be performed on the data included in the documents. [9].

3 Result and Discussion

3.1 Imposition of Final PPh and BPHTB Taxes Based on Government Regulation

A person's right to land or connected to land, such as Property Rights, Cultivation Rights, Building Rights, Right of Use, Lease Rights for Buildings, Right to Clear Land, and other rights, are governed by UUPA, which is based on the Basic Agrarian Law. Article 21 and Article 49 paragraph (1) of the LoGA establish that in general only Indonesian nationals may own land, either individually or jointly. In addition, the government can grant land ownership rights to certain designated and appointed legal bodies working in the social and religious spheres, so long as those entities use the land for their designated or appointed purposes. *gamaan*. However, foreigners may have limited use rights to land but not ownership rights. In order for a sale, a gift, an auction, or an inheritance of land in Gianyar Regency to be valid and not nullified, the transfer of ownership rights (over land) must comply with a number of regulations. Article 584 of the Civil Code makes

it clear that the transfer of property rights must be made by the owner or someone with full authority over the owned property. In addition, the rights (title) for the transfer and transfer of property rights are founded on a civil event that wants to transfer his property rights from one person to another.

Government Regulation Number 34 of 2016 (PP No. 34 of 2016) concerns Income Tax on Income from the Transfer of Land and/or Building Rights and Binding Agreements of Sale and Purchase of Land and/or Buildings and their Amendments, and is the final enactment of the Income Tax (PPh Final) Law. Income from the transfer of real property in Gianyar Regency has a final PPh rate of 2.5% of the Tax Object Transfer Value as established by PP No. 34 of 2016. (NPOP). The government's Tax Object Selling Value (NJOP) can be used to calculate NPOP, or NPOP can be derived from the actual sale price of land, the current market value, the price at auction, or some combination of these factors.

The BPHTB tax is a fee that must be paid before the authorized official will execute a deed of transfer of rights, such as a sale and purchase, grant, auction, or inheritance.

[10] The Fee for the Acquisition of Rights to Land and Buildings (BPHTB) is a tax levied on the acquisition of rights to land and/or buildings in accordance with Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. This tax is levied on any act or series of legal events that results in the acquisition or possession of land and/or building rights by individuals or entities.

Article 88 of Law No. 28 of 2009 pertaining to BPHTB states that the rate of BPHTB is 5% of the basic value of the object of tax imposition (NPOP), calculated using the actual value of the land transaction or market price, the price indicated in the auction, or the NJOP-PBB for the current year. Further, the Acquired Value of Non-Taxable Tax Objects (NPOPTKP) in the amount of Rp. 60,000,000 can be explained from the agreed NPOP as per Article 87, paragraph 4, of Law no. 28 of 2009. (sixty million rupiah). The Acquired Value of Taxable Objects is the number that results from this discount (NPOPKP).

Individuals and corporations making real estate transactions are liable to both the Final PPh and BPHTB Taxes. In this context, "people" can refer to either a single person or a group of people acting as either the transferring or receiving party. However, the application of Final PPh and BPHTB Tax on certain foundations, social organizations, religious groups, and representatives of diplomatic institutions is heavily regulated and some of these individuals and organisations are eligible for tax exemptions.

Because it has been formulated in articles so that it does not cause doubts and multiple interpretations, the process of transferring ownership rights to land through buying and selling in accordance with all the elements and rules in the legislation is a reflection of legal certainty because it is followed by all levels of society and does not will lead to a conflict of norms.

[11] In this context, legal certainty refers to the enforcement of the rules and norms of the law itself in relation to what is done or happening in the community, specifically the transfer of property rights to land through buying and selling in accordance with all applicable rules and norms. If legal certainty is not enforced, of course sanctions will be imposed, or at the very least, the transfer of ownership rights to the land cannot be carried out. [12].

According to Article 37 of PP No. 24 of 1997, a deed made by a certified PPAT is required for the registration of a sale or other conveyance of real property. The PPAT requires both the party transferring and the party receiving rights to attend in person in order to execute a deed of transfer of rights. The sale and purchase of land is subject to two types of conditions: those related to the land itself, and those related to the transaction itself. The existence of a willing buyer and seller and the absence of any issues with the title to the land at issue are the essential criteria for the transaction to go through. And the pre-PPAT sale and purchase deed is where the formalities come into play. What follows is the end result of a sale and purchase of property in the Gianyar Regency of Dispenda. The following table details a selection of Gianyar Regency purchases and sales where the final value differed from the agreed-upon quote and from the table price, as confirmed by the Head of;

No	Tgl Transaksi	Nilai Transaksi Riil	Nilai Yang Disepakati	Harga Tabel	Harga Disetujui
1	2 Desember 2020	1,5 M	700 Juta	800 Juta	725 Juta
2	15 Januari 2021	2 M	800 Juta	900 Juta	850 Juta
3	23 April 2021	3 M	700 Juta	700 Juta	700 juta

Since the figure set by the BPHTB's Chief is higher than the NJOP, this does not violate any laws. There are still many Gianyar Regency BPKAD taxpayers who are hesitant to adhere to the table price, which is the NJOP price established by the Gianyar Regency BPKAD, according to data collected from the region's tax payers. Providing taxpayers with real value is surprisingly simple. If a taxpayer is hesitant to accept the table price set by the Gianyar Regency BPKAD because it does not reflect the actual cost of the transaction at issue, the onus falls on the taxpayer to provide proof of transfer/payment when submitting files with the Gianyar Regency BPKAD. If the agreed-upon price in the tax payment exceeds the NJOP price established by the Gianyar Regency BPKAD, then this provision does not apply.

Acquisition of rights on land and/or buildings due to grant is one of the objects of income tax (PPh Final) and the object of BPHTB tax, according to Article 1 paragraph (2) Government Regulation Number 34 of 2016 (PP No. 34 of 2016) and Article 85 paragraph (2) letter a number 3 of Law Number 28 of 2009 (Law No. 28 of 2009). In a grant, the donor agrees to provide something to the grantee free of charge and permanently for the benefit of the grantee's use while the donor is still alive. Pure grants are transfers of property in the form of land and/or buildings by way of grants to blood relatives in a straight line of one degree, for example, grants from parents to biological children or vice versa. Ordinary grants are transfers of property in the form of land and/or buildings by way of grants to non-relatives, and both types of grants are subject to taxation. [13] The Grant Recipient is nevertheless responsible for paying any applicable BPHTB tax, even if the grant itself is free from payment responsibilities or the imposition of income tax (PPh Final) under Article 6 letter b of PP No. 34 of 2016. While PPAT is confident in his ability to determine and issue a grant deed for pure grants, ordinary grants are land grants that do not fit within the context of pure grants, such as those made by grandparents to grandchildren or by you to your nephews

and other relatives. Income tax (PPH Final) and BPHTB tax are due on the transfer of ownership rights to land through this pure gift.

3.2 The Imposition of Final Income Tax (PPH Final) and BPHTB Tax in Accordance with the Principles of Taxation

Every tax levied by the Government must be based on the Law, so that there is no tax that is only levied based on a Government Regulation or based on a Presidential Decree or based on other Laws and Regulations that are lower than the Law. Based on that provision, the collection of all types of taxes must be based on the law. The right to collect taxes is the government as a tax collector (*fiskus*), because taxes are a transfer of wealth from the community to the government to finance state expenditures without getting direct performance counters.[14] But that does not mean that the government determines the tariffs arbitrarily, because according to the 1945 Constitution, the making of laws is carried out by the President and the House of Representatives (DPR) together.

While the tax arrangement is based on law, it means that the issue of the amount of tax rates is an agreement between the President (government) and the DPR. Thus, the people's tax collection can be said to have been approved by the owner, namely the people through their representatives who sit in the House of Representatives. Specifically for the formation of regulations in the tax sector, in his book entitled *Wealth of Nation*, Adam Smith provides guidelines that in order for tax regulations to be fair, the following four conditions must be met. a. Equality and equity means equality and justice, b. Certainty means certainty, c. Convenience of payment means that taxes must be collected at the right time, namely when the taxpayer has money, d.

Economic of collection implies that taxes must also be taken into account the ratio (balance) between the costs of collection/collection with the tax proceeds itself so that it is hoped that there will be no negative tax results where the costs incurred for tax collection are actually greater than the amount of tax collected. In the implementation of the collection taxes so that the implementation of tax collection can run properly, fairly, smoothly, not interfere with the interests of the community, as well as bring good results to the state treasury including the juridical, economic and financial principles. The juridical principle is that according to this principle, tax law must be able to provide the necessary legal guarantees to express firm justice, both for the state and its citizens. The economic principle means that in this case it should be remembered that in addition to having a budgetary function, taxes also have a regulating function. The financial principle means that the most important tax function is the budgetary function, which is to put as much money as possible into the state treasury. In this regard, so that the tax collection results are large, the collection fees must be as small as possible.

One of the characteristics of taxes is that the collection must be based on law in order to ensure legal certainty, does not cause multiple interpretations, and applies fairly to all levels of society.[15] Legal certainty also means that the tax law and other regulations related to it are not arbitrary by the authorities to their people, nor are they an assumption but something that is certain which is expected that the people in this case the taxpayer (WP) can know and take into account the exact amount of tax owed and then pay it which indirectly means that the taxpayer who has paid the tax takes part in the process of nation building. The imposition of Final PPH and BPHTB Taxes in the transfer of ownership

rights to land in Gianyar Regency in accordance with PP No. 34 of 2016 and Law no. 28 of 2009 implies that the legal certainty of the imposition of these taxes is based on legislation, based on facts that exist and occur in people's lives, whose implementation is clearly formulated in articles and is a rule that has been agreed upon by the government and representatives of the people. so it's not easy to change. For example, Law no. 28 of 2009 concerning Regional Taxes and Levies, which in its articles also regulates the imposition of BPHTB Taxes, where this law has existed since 2009 and there has been no discussion at the top level to replace it.

This means that it can be concluded that this Law in accordance with current needs also contains the principle of legal benefit in addition to legal certainty and values of justice. Imposition of Final PPh and Taxes BPHTB in the transfer of land ownership rights in Gianyar Regency is also closely related to the theory of rights and obligations in legal actions. The tax payable does not arise because of the tax authority's determination, while because of the law, namely because of a *tatbestand* (real situation), the existence of a condition or act or event that can cause tax debt, such as buying and selling land, grants, auctions and inheritance. When the tax debt arises, it has an important role because it relates to the obligation to pay taxes owed before obtaining land rights.

4 Conclusion

The implementation of the transfer of ownership rights to the land based on the applicable laws and regulations results in the emergence of tax debts that must be paid by the parties. Based on the results of the study, it can be concluded that the transfer of ownership rights to land in Gianyar Regency that most often occurs is through buying and selling methods, grants, inheritance, and auctions. The rate for the imposition of Final PPh is 2.5% of the base of imposition while for BPHTB tax it is 5%.

In practice in the field as obtained at the Notary/PPAT office and the office of the Head of the BPHTB Gianyar Regency, it was found that the basis for imposing the value of the tax object through buying and selling is the transaction price agreed upon by the parties, transactions through grants are based on the NJOP of the land/or building that is granted, the basis imposition through auction is based on the auction price and the transfer of ownership rights to land through inheritance is exempted from having to pay these taxes or is nullified.

The imposition of final income tax (PPh Final) and BPHTB tax in the transfer of ownership rights to land in Gianyar Regency, whether through buying and selling, grants, auctions and inheritance, is in accordance with the principles of taxation, namely the principles of justice and equality, based on legal certainty, paying attention to the ability of taxpayers to pay their taxes, and that the public is aware that paying taxes means participating in financing government administration activities and nation building.

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