The Legal Certainty of Determining State Financial Losses in BUMN

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***Abstract*- Since outside parties may audit BUMN's segregated state assets on behalf of BPK and public accountants chosen at the general meeting of shareholders (GMS), State Financial Audit Standards (SPKN) are crucial. Apart from being bound by the SOE Law, State-Owned Enterprises (SOEs) are additionally subject to the provisions and guidelines of the Limited Liability Company Law. This law permits SOEs to be audited by a public accounting firm (KAP) by Article 66 paragraph 4 and Article 68, paragraph 3. Regarding the Use of Auditors and Experts from Outside BPK, BPK Regulation 1 of 2008 governs the relationship between BPK and public accountants. Even though the accounting profession has its accounting standards, examinations by public accounting firms must be based on state financial audit requirements, and audits must be carried out on behalf of BPK. A critical function for public accounting is striving for reliable financial audit reports. The performance of financial auditors has a significant impact on the fulfillment of the state financial losses element. The legal entity's opinion or expression of view regarding the report or financial data is the public accountant's responsibility. Nonetheless, there are some issues with having a public accountant participate in the BUMN assessment process. Legal matters will surface if there are notable discrepancies between the financial statement or audit results from BPK and public accountants. To demonstrate the element of state losses, corruption law enforcement significantly depends on the integrity and correctness of financial reports generated by auditors. If there is a filthy design about the audit results between the BUMN and the designated public accountant, it is a legal issue that needs to be regulated. Financial audit reports have a lot of accounting engineering, which could be better for state budgets.**

Keywords- Audit; Public Accountant; State Financial Losses;

I. INTRODUCTION

It might be challenging to calculate state losses in SOEs. The dualistic approach to assessing state financial losses is made possible by the legal status of SOEs that oversee assets separated from the state. Due to the dual state asset status, SOEs are subject to audits by the Public Accounting Firm and the BPK. This dualism is the foundation for legal issues in the financial analysis of SOEs. This dualism is explained by Law Article 6, paragraph 4 of Law No 15 tahun 2006 about the Supreme Audit Agency, which states that a public accountant may review SOEs in addition to the BPK, establishes the hierarchy of this duality.[1]

Article 6, paragraph 4 of Law No. 15 of 2006 About the Supreme Audit Agency, which states that a public accountant may review SOEs in addition to the BPK, establishes the hierarchy of this duality. To fulfill the audit duty, BPK may engage examiners and specialists from outside BPK who work for and on behalf of BPK, following the guidelines outlined in Article 9 paragraph (3) of Act No. 15 Year 2004 on Audit of State Financial Management and Responsibility. If BPK needs the examiners necessary for an examination, it will use examiners from outside the organization.

However, as an SOE's legal form is a Limited Liability Company, it is also subject to the rules and guidelines of the Limited Liability Company Law as a business entity. The Limited Liability Company Law's Article 66, paragraph 4, and Article 68, paragraph 3 clarify that BUMN Persero may also be audited by a public accounting firm (KAP).To ascertain the legal certainty of calculating public financial losses, inspecting SOEs by BPK and Public Accountants presents several legal challenges. The public accounting profession plays a critical role in providing legal clarity when identifying the components of state financial losses. The public accountant's responsibility in practicing their trade is the opinion or statement of view on a business's report or financial information.[2]

Normatively, BPK Regulation Number 1 of 2017 addresses the state financial audit system and BPK Regulation Number 1 of 2008 concerning the Use of Auditors and specialists from outside BPK to control the audit conducted by BPK and public accountants. These two regulations maintain the application of accounting standards, the appointed

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public accountant's capacity requirements, and the procedures governing coordination between the public accountant and the BPK. There will be specific trends, though, that compromise legal certainty.[3]

It is complex for BPK to oversee BUMN's finances. According to Cahyo Anggoro's dissertation, there are several legal and managerial issues with BPK's supervision of SOEs [Cahyo Anggoro, Dissertation on BPK's Follow-Up on the Implementation of Public Accountant Examinations of SOEs, Doctoral Program in Law, Padjajaran University, Bandung, 2018, p. 244]. Despite this, BPK employs a chief inspector who serves to reevaluate the findings of auditor audits. The primary inspector of the BPK not only verifies the audit outcomes and the auditors' moral character. The accounting engineering example of PT Garuda demonstrates that collaborative engineering has taken place between public accountants and the management of the state-owned firm. Its goal is to reduce the amount of fraud committed by each auditor. The corporation made the financial documents appear in steady financial shape, but they were losing money. PS. After re-examination, Garuda's reported profit of Rp. 70.76 billion was shown to represent a loss of Rp. 3.45 trillion. The consideration of this element is undoubtedly based mainly on the principle of legal certainty. This would be helpful since a BPK audit system's public accountant component is a tool that will provide legal clarity regarding state financial losses.[4]

II. LITERATURE REVIEW

A. State Finances

State finances are regarded from a process viewpoint, involving a sequence of activities connected to the administration of state financial objects, commencing with policy formation and decision-making to accountability. State finances are viewed from the perspective of objectives, covering all policies, activities, and legal relations relating to the ownership and control of State financial objects in the context of administering the State. This indicates that the definition of "state finances," as defined by Law No. 17 of 2003, is wide.

They understand state finances in Law No. 17 of 2003 concerning State Finances, in line with the general explanatory formulation of Law No. 31 of 1999 concerning the Eradication of Corruption Crimes. The state finances under consideration comprise all state assets, whether divided or not, as well as all components of those assets and any resulting rights and obligations.

B. State Rights and Obligations in Matters of State Finances

The definition of state finances included in Article 1 of Law No. 17 of 2003 Concerning State Finance implies several state financial rights and obligations. The government or state is granted rights such as the monopoly right to print money, the authority to levy taxes, customs, excise, and other levies, the power to produce goods and services that society needs, and the authority to make loans from both domestic and foreign sources to finance the interests of the state apparatus (routine) and culture (development) (Mahfud, 2006: 112). These rights are used to fulfill the state's goals as stated in the 1945 Constitution's fourth preamble paragraph and to compensate third parties performing certain state functions with the government's consent or appointment.

III. METHOD

The normative legal research method was applied in this study. The author makes an inventory of laws and regulations, journals, ICC decisions, and various other literature.[12] The data obtained will be analysed qualitatively, which the author will use as material to examine the importance of legal control and/or ownership in the supervision of MSME partnerships with large/medium business actors.[13] The data obtained will be analysed qualitatively emphasising the quality of the research compared to the quantity of legal events that occur. In this research, the author will draw conclusions using inductive logic, which means changing conclusions from specific methods to general methods. The purpose of using this logic is to obtain the sharpness of analysis in this research.[14]

IV. RESULT AND DISCUSSION

The dynamics underlying the legal issues this research focuses on will influence other laws, making it difficult to arrive at legal certainty. The standards applied during the assessment significantly affect the auditor's viewpoint in the numerous BUMN corruption situations. Legal issues arise when there are notable discrepancies between the financial statement or audit results from BPK and public accountants. The audit quality will be correlated with the

LHP between public accountants and BPK, which may differ significantly within a single BUMN business. The financial audit standards that auditors employ are one factor that influences the quality of their audits.

Audits performed by auditors that comply with auditing standards or regulations might be considered high-quality, according to the Public Accountant Professional Standards (SPAP). The professional abilities of the auditor, their judgment in the field, and the creation of an independent auditor's report are among these auditing requirements. In the meantime, auditors doing government financial statement audits must adhere to the State Financial Audit Standards (SPKN), which are auditing requirements established by BPK RI.

KAP must adhere to the Public Accountant Professional Standards (SPAP). Although the Supreme Audit Agency (BPK) has a standard inspection procedure in place for calculating and determining state losses, as outlined in BPK RI Regulation Number 1 of 2017 concerning State Financial Audit Standards (SPKN), SPAP is a reference that is determined to be a quality measure that public accountants must obey in providing their services, as explained in KAP Law Article 1 point 11.

BPK Regulation No. 1 of 2017 lists the state financial audit standard (SPKN) for the BPK. Public accountants conduct audits using the Public Accountant Professional Standards (SPAP) and SPKN. BPK will establish regulations in a clause governing how public accountants use SPKN. The public accountant's report has to be turned in to BPK for assessment. The evaluation adheres to the BPK-established protocols. Next, BPK submits the findings of the review and examination for public accountants to the representative institutions so that they can be investigated in line with their jurisdiction.

The Public Accountant Professional Standards (SPAP) and State Financial Audit Standards (SPKN) are essential tools for estimating state financial losses. As a financial supervisory organization, BPK must account for specific financial examination requirements, a component of the state financial supervision system. This study will use a State-Owned Enterprise (BUMN) as the test subject for these audit instruments. The audit report's importance will be reduced if the audit organization applies the same standard. Financial, performance, and goal-oriented audits all employ SPKN standards.

Third-party relationships, primary matters/information, audit criteria, audit evidence, audit reports, and tracking the follow-up of audit outcomes are some of the components that make up the state financial audit. Exam hazards are also a part of any examination, and the examiner has to be conscious of, accept, weigh, and control these risks. Risk arises when the examination's findings do not match the actual circumstances; in this case, auditors can create examination protocols and techniques to minimize these differences.[5]

The findings of the Supreme Audit Agency, which initially looked into the two LHPs, are employed in the legal concept, even if there is still relevance in the differences between the LHPs. BPK Regulation No. 1 Year 2008, Article 9, addresses using examiners and experts from outside BPK. It guarantees that BPK will submit and publish the assessment and public accountant audit report results to the Representative Body.

Article 10, paragraph (1) of the BPK Law regulates BPK's power to compute and ascertain state losses. Article 3 letter of Presidential Regulation Number 192 of 2014 governing the Financial and Development Supervisory Agency, on the other hand, regulates the BPKP's jurisdiction. According to a statement from the Legal Clinic article "Authorized Parties to Assess State Losses in Corruption Cases," the Supreme Audit Agency (BPK) and the Financial and Development Supervisory Agency (BPKP) are the parties with the authority to evaluate and ascertain if the state has suffered financial losses.[6]

Therefore, if there are notably disparate reports on BUMN's financial results, the authority and examination criteria will be clearly defined and serve as a legal guide for any issues that may arise. These two factors need to be taken into account for the sake of legal certainty. Fraudulent design issues involving public accountants assigned to RUPS meetings concerning the outcomes of financial audits conducted by SOEs.[7]

The accounting controversy accurately shows accounting fraud in the company's financial statements. Fraud is intentionally making a mistake to gain an advantage over other parties. Accounting engineering is used by corruption at BUMN to look legitimate and accountable. Because people who create the report have an interest, it is possible that the financial statements shown in the LHP do not reflect reality. According to the law, an action qualifies as fraud if it benefits the individual or group, hurts other people, uses incorrect techniques, or involves illegal or unlawful conduct.

According to Law No. 5 of 2011 about Public Accountants, if this occurs during the audit of BUMN accounts, various administrative and criminal punishments will be applied. A public accountant is prohibited by Article 30

Paragraph 1 Letter J of the Public Accountant Law from engaging in any activity that would cause working papers and other documents about the provision of services, as mentioned in Article 3 Paragraph (1), to become improperly used, as well as from manipulating, aiding in the manipulation or falsification of data related to the services rendered. When fraud is found in a report, it should be assessed, filed with the CPC, and made available to the public. A third party with no financial stake in the organization should verify that the data in the financial statements complies with widely established standards.[8]

The auditor is the name of the impartial party. In Indonesia, the Public Accounting Firm (KAP) and the Supreme Audit Agency (BPK) are the two organizations that can audit financial accounts. The purpose of the BPK and KAP audits is to assess the financial statements that have been audited. This is controlled to guarantee legal clarity regarding assessing governmental financial losses. The law can only exist with certainty, particularly regarding codified legal principles. If a law lacks certainty value, it will become meaningless since it can no longer serve as a universal behavioral guideline. One of the goals of the law is stated to be certainty itself.[9]

An accurate financial statement inspection is necessary for calculating state losses. To prevent being interpreted differently, the structure of collaboration and supervision between BPK and public accountants needs to be unambiguous regarding the precise amount, who is accountable for errors, and who is the auditee. This must be put into practice so that it is easy to distinguish between company and state financial losses when considering SOEs as business organizations. An open, rigid system with various approaches will promote accuracy in estimating state losses to achieve legal certainty.[10]

V. CONCLUSION

There may be notable variations between the audit findings or financial statements BPK and public accountants provided. In this case, the BPK's LHP becomes the law enforcement community's standard by assessing the LHP before the BPK releases it as proof of the state's financial loss calculations. In connection with this, coordination procedures and a stringent supervisory framework are required for the state financial audit system. Accounting engineering violations between State-Owned Enterprises (SOEs) and public accountants they have selected for the GMS meeting may result in severe criminal and administrative penalties following applicable laws. Audit evaluations, whether financial, performance, or purpose-driven, must be completed before the audit's end to identify audit fraud.

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