



## Implementation of the Responsibilities of Land Deed Making Officials in Requesting Proof of BPHTB Payment and Reporting BPHTB Taxes to the Regional Revenue Agency (Central Lombok District Study)

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### **Abstract**

BPHTB is part of the tax payable in every transaction to acquire land and building rights. In Law Number 1/2022 concerning Regional Taxes and Regional Levies, Regencies/Cities are given the authority to collect 11 types of Regional Taxes, including BPHTB. The conditions for collecting these 11 types of Regional Tax are unique in practice, where in collecting BPHTB tax, BAPENDA chooses to hold a team meeting to determine the value of the tax object, while PPAT feels that it is ineffective and inefficient when determining the value of BPHTB tax (Land Rights Acquisition Fee). carried out through team meetings, therefore it is necessary to review the Articles and Regulations related to regional taxes and levies, so that the BPHTB tax value is no longer carried out based on team meetings, this is one of the causal factors If PPAT does not report BPHTB to BAPENDA, if PPAT does not report every 10th of every month, it will be considered as not reporting for a year, and BAPENDA as the regional government will impose sanctions on the PPAT in the form of administrative sanctions, namely paying a fine of Rp. 10,000,000, through empirical normative research and interpretation of primary, secondary and tertiary legal materials, it can be concluded that there is a misconception between the Notary/PPAT and BAPENDA Central Lombok, where this administrative sanction has been in effect since 16 July 2023 which is contained in article 60 PP 35/2023, which requires PPAT to carry out BPHTB tax reporting.

**Keywords:** BAPENDA; BPHTB; PPAT

### **Introduction**

Based on Article 2 of Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notaries and referred to as UUJN (Notary Position Law), namely that Notaries are appointed and dismissed by the Minister. By appointing a Notary by the Minister of Law and

Human Rights, the Notary can carry out his duties freely, without any pressure from other parties or bodies. Because a Notary in carrying out his office must act neutrally and independently. Apart from that, in carrying out his duties, a Notary must have responsibilities, which means: (Roesnatiti, 2009)

1. Notaries are required to make deeds properly and correctly. This means that the deed made contains the legal will and requests of interested parties because of their position.
2. Notaries are required to produce quality deeds. This means that the deed that is made is in accordance with legal regulations and the wishes of the interested parties in the true sense, not making it up. The notary must explain to interested parties the correctness of the contents and procedures of the deed he or she is making.
3. It has a positive impact, meaning that anyone will admit that the contents of the Notary's deed have perfect evidence.

In accordance with the description above, the position held by a Notary is a position of trust mandated by law and society, a Notary is responsible for carrying out the trust given to him by always upholding legal ethics and the dignity and nobility of his position, because if this performed by a notary will have an impact on the general public he serves. A notary is a public official in the sense that the authority of a notary is never given to other officials, this authority is the authority of the notary. (Habib Adjie, 2008).

Furthermore, the existence of the Land Deed Making Officer (PPAT) is currently very important in terms of business relations, activities in the banking, land and housing sectors. Currently, one of the authorities of the Land Deed Drafting Officer (PPAT) is to make an Authentic Deed. An authentic deed made by a Land Deed Making Officer (PPAT) is proof that certain legal acts have been carried out related to land rights and ownership of apartment units.

Of course, the existence of Notaries and PPATs is needed in social life, especially in producing authentic written evidence. In a transaction regarding the transfer of rights to land and/or buildings, there are two types of taxes that can be imposed, namely income tax on the transfer of rights to land and/or buildings (PPH) which is imposed on the seller, and tax on the acquisition of rights to land and/or buildings (BPHTB). charged to the buyer.

Land and Building Rights Acquisition Fee (BPHTB) is a material tax in the sense that the amount of the tax is determined by the sales value of the tax object, namely land and/or buildings. The circumstances of the subject (who pays) do not determine the amount of tax. (Dina Erlinda, Fifiana et al, 2022)

Apart from that, in determining the tax value, the tax object is determined by the BAPENDA meeting team organized by the Central Lombok regional government, where this meeting team is the one who determines the value of the BPHTB tax levied on a plot of land and/or building, which It is not uncommon for this meeting team to not be subjective in providing tax values. It is possible that one parcel of land has a different BPHTB tax value, because this is what causes PPAT's performance in making land deeds to have obstacles and in reporting BPHTB tax to the Regional Revenue Agency of Central Lombok district. Apart from that, the Notary/PPAT also has the obligation to report the BPHTB tax, as regulated in Government Regulation Number 35 of 2023 in Article 60 which reads:

- 1) The official who makes the land deed or notary according to his or her authority is obliged to:
  - a. Request proof of BPHTB payment from the taxpayer, before signing the deed of transfer of land and/or building rights. And
  - b. Report the making of a binding sale and purchase agreement and/or deed for land and/or building to the regional head no later than the 10 (tenth) day of the following month.

- 2) In the event that the official who makes the land deed or notary violates the obligations as intended in paragraph (1), he will be subject to administrative sanctions in the form of:
  - a. A fine of IDR 10,000,000.00 (ten million rupiah) for each violation as intended in paragraph (1) letter a, and/or
  - b. A fine of Rp. 1,000,000.00 (one million rupiah) for each report as intended in paragraph (1) of ruf b.

In Article 60 of Government Regulation Number 35 of 2023 paragraph (1) letter (a) the PPAT or Notary has the obligation to request proof of BPHTB payment from the taxpayer before signing the deed of transfer of rights to land and/or buildings, if this obligation is not carried out, the PPAT or the Notary will be fined Rp. 10,000,000.00 for each violation as intended in paragraph (1) letter a in Article 60.

Based on the explanation above, the problem in this research is the administrative sanctions given to Officials who make Land Deeds who do not report the tax for making the Sale and Purchase Agreement for Land and/or Buildings (BPHTB tax) to the Regional Head no later than the 10th of each following month. Meanwhile, the person who has the authority to impose sanctions on Land Deed Making Officials who commit violations is the head of the land office which is under the auspices of the Ministry of Agrarian Affairs and Spatial Planning, therefore research needs to be carried out in order to examine how the Land Deed Making Official's Responsibilities are Implemented in Requesting proof of payment and Reporting Land Rights Acquisition Tax to BAPENDA in Central Lombok Regency.

### ***Method***

This type of research is empirical normative legal research with 3 (three) approaches used, including the statutory regulatory approach, conceptual approach and sociological approach. Regarding the sources of legal materials used, namely 3 (three) legal materials, including primary legal materials, secondary legal materials and tertiary legal materials. In this research, the procedure for collecting legal materials used is the legislative study technique, which is data to solve problem formulation, by studying regulations and legislation.

### ***Results and Discussion***

#### **PPAT Obligations in Requesting Proof of BPHTB Tax Payment**

RolePPAT in paying BPHTB tax on land and/or building sale and purchase transactions, that PPAT cannot sign a deed of transfer of rights to land and/or buildings or often called a sale and purchase deed before the taxpayer submits proof of tax payment. This is an obligation because there is a delegation of authority not to take certain actions, namely by not signing the sale and purchase deed. Apart from that, a PPAT is also given the responsibility to participate in supervising the payment of BPHTB taxes so that before signing the sale and purchase deed, the parties must first pay the taxes arising from the transfer of rights to land and/or buildings.

Transactions regarding the transfer of ownership rights to land and buildings due to the sale and purchase are carried out before the Land Deed Official (PPAT) to ensure legal certainty regarding the transfer of land and building rights. In carrying out its office, the PPAT must provide an explanation regarding the deed of transfer of rights and the obligations that must be fulfilled by the parties, including showing the original letter of acquisition of land and building rights. There is a transfer of rights to land and buildings. In carrying out its duties, the PPAT must provide an explanation regarding the deed of transfer of rights and the obligations that must be fulfilled by the parties, including showing the original

letter of payment of the tax owed, namely Income Tax and Fees for Acquisition of Land and/or Building Rights. (Ronal Ravianto, Amin Purnawan, 2017)

The procedure for paying Land and Building Rights Acquisition Fees is one of the conditions for making a Deed of Transfer of Land Rights. (Nurul Huda, 2022)

- a. Sellers and buyers come before PPAT in order to provide legal certainty for land and building rights holders.
- b. PPAT officers receive the required requirements, namely: Resident Identity Cards of both parties (seller and buyer), certificate of land to be sold, marriage certificate of the seller for those who are married, proof of the latest Land and Building Tax (PBB) payment and the seller's family card, then PPAT employees check the completeness of these requirements. If the requirements are not complete, the PPAT officer recommends that the taxpayer complete them first.

### **BPHTB Tax Reporting Mechanism by PPAT to the Regional Government in Central Lombok Regency**

The process of transferring rights to land and/or buildings is closely related to legal certainty in order to serve as evidence so that these rights can be obtained/maintained in front of all parties, and in the process creates rights and obligations for the party transferring and the party receiving the transfer of rights. Taxes that are closely related to legal actions in the transfer of rights to land and/or buildings, which are more specific to buying and selling, are BPHTB Tax.

Apart from that, according to information from Lalu Jaya, the planning and potential development division as the Lombok district government is explaining that the reporting mechanism has not been regulated clearly and in detail in statutory regulations, but is still using existing Standard Operating Procedures (SOP). in Governor Regulations and Regent Regulations. Reporting on BPHTB Transactions by PPAT in Central Lombok district refers to Regional Regulation Number 14 of 2010 concerning Regional Taxes, PPAT in submitting reports uses a standard format made by each PPAT and sends the report to the Regent via Bapenda Central Lombok Regency with an attachment containing the number of BPHTB transactions per month includes zero transactions. The report must be received by the Central Lombok Bapenda no later than the 15th of the following month. Then the PPAT report is registered by the Revenue Management Division for subsequent verification of the submission date. Then he also explained regarding the implementation of PP 35 in the Draft Regional Regulation, and the implementation of sanctions against PPAT so far, he explained. (Results of past interviews with Jaya Prana)

"In accordance with the Ranperda PDRD of Central Lombok Regency which is a derivative of Law Number 1 of 2022 concerning HKPD and PP 35 of 2023 concerning General Provisions for Regional Taxes and Regional Retributions, article 60 is stated as follows:

(1) Land Deed Making Officials/Notaries according to their authority are required to:

- a. Request proof of BPHTB payment from the taxpayer, before signing the deed of transfer of rights to land and/or buildings; And
- b. Report the making of deeds on land and/or buildings as intended in paragraph (1) to the Regent no later than the 10th (tenth) of the following month.

(2) In the event that the Official Land Deed Maker/Notary violates the obligations as intended in paragraph (1), administrative sanctions will be imposed in the form of:

- a. A fine of Rp. 10,000,000.00 (ten million rupiah) for each violation as intended in paragraph (1) letter a; and/or
- b. A fine of Rp. 1,000,000.00 (one million rupiah) for each report as intended in paragraph (1) letter b.

"Until now, the PDRD Draft Regional Regulation has not been ratified pending the Evaluation Results of the Ministry of Home Affairs and Ministry of Finance as well as the Governor's Evaluation Results."

Furthermore, if we refer to the theory of legal effectiveness by Soerjono Soekanto, according to the theory of legal effectiveness according to Soerjono Soekanto, whether a law is effective or not is determined by 5 factors, namely. (Soerjono Soekanto 2008)

1. The legal factor itself (Law)
2. Law enforcement factors, namely the parties who form or implement the law.
3. Facilities or facilities factors that support law enforcement.
4. Community factors, namely environmental factors where the law applies and is implemented.
5. Cultural factors, namely as a result of work, creativity and feelings that are based on human intention in the course of life.

Based on the theory above, based on the author's opinion, it can be concluded that the effectiveness of Government Regulation Number 35 of 2023 concerning the provisions for administrative sanctions for Notaries/PPATs is influenced by Firstly, the legal factor itself, namely Government Regulation Number 35 of 2023 in question which has been regulated. Second, the law enforcement factor, namely the parties who form or apply the law, in this case the Regional Revenue Agency (Bapenda) and also the Notary/PPAT according to the scope of their respective roles.

Furthermore, the author also uses the theory of legal certainty as a reference for the author's analysis. According to Utrecht, legal certainty contains two meanings, the first is the existence of general rules that make individuals know what actions they may or may not do, and the second is legal security for individuals from government arbitrariness because with the existence of general rules individuals can know what which may be imposed or carried out by the State against individuals. Thus, the general rule referred to here is PP No. 35 of 2023 as intended which is addressed to individuals, namely the PPAT concerned. So this theory is used as a reference for PP no. 35 of 2023.

### **Barriers to implementing sanctions on PPAT by BAPENDA in Central Lombok district**

In essence, the Land Deed Making Officer, in carrying out his duties and authority as a public official, PPAT has no obligation to take care of taxes. However, following Government Regulation Number 35 of 2023 in Article 60 paragraph (1) letter a, it is stated that the Land Deed Making Official has the obligation to request proof of BPHTB payment from the taxpayer before signing the deed of transfer of rights to land and/or buildings.

The emergence of this Government Regulation indirectly creates new duties for a Notary/PPAT in carrying out their duties. However, it does not rule out the possibility that with the birth of this regulation, there will be obstacles encountered in its implementation. Even though in reality PPAT is not responsible for BPHTB taxes, PPAT only helps BAPENDA in optimizing taxes and regional income.

Obstacles often arise from Bapenda itself, PPAT and tax authorities, all of which have their own obstacles in resolving the BPHTB tax.

## Conclusion

Based on the analysis discussed in the previous chapter, the following conclusions can be drawn:

1. Implementing the responsibilities of Land Deed Officials in requesting proof of payment and reporting BPHTB tax to the Regional Government (This is done by referring to Law Number 1 of 2022 concerning financial relations between the central government and regional governments. Law Number 28 of 2009 concerning regional taxes and levies which are regulated in article 74 paragraph (1) and article 72 paragraph (1) and (2) also regulates the implementation of PPAT's responsibilities in reporting BPHTB taxes, as well as Government Regulation Number 35 of 2023 concerning general provisions for regional taxes and levies contained in article 60, which in this regulation regulates administrative sanctions against PPAT. However, until now the relevant regional regulations regarding BPHTB have not been ratified by the Central Lombok district government.
2. The accountability mechanism for the Land Deed Official to request proof of BPHTB payment is the first step that must be taken by a PPAT when carrying out a sale and purchase transaction, or transferring land rights. Ensure that the taxpayer's obligation to complete his responsibilities before carrying out the transfer of rights, apart from the BPHTB tax, and other procedures must have been completed before a PPAT can carry out the transfer of land rights. The BPHTB tax itself can be completed by the taxpayer concerned using a self-assessment system, or through PPAT. Then the BPHTB tax is what PPAT reports to Bapenda, then Bapenda reports it to the Regent. BPHTB tax reporting is carried out every month by PPAT even if it is through a draft BPHTB tax report which is then submitted to Bapenda, Bapenda then carries out checks regarding this tax, if in one month PPAT does not report, monthly reporting is carried out every 10th of each month, then it is considered as not reporting for one year. And administrative sanctions are given in accordance with the provisions in article 60 of Government Regulation Number 35 of 2023.

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