

## JURIDICAL ANALYSIS OF THE EXPUSION OF COST OF ACQUIRING THE RIGHT TO LAND AND BUILDING (BPHTB) FOR TRANSFER OF RIGHTS TO LAND AND BUILDING TO TAXPAYERS IN SEMARANG CITY

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### ABSTRACT

Tax as a source of state revenue must be the main revenue because other sources of revenue, apart from taxes such as natural resource management income, are very limited, can be reduced, or even depleted. One type of tax is BPHTB, which is imposed on individual taxpayers or legal entities who transfer land rights. The approach method used an empirical juridical approach with analytical descriptive specifications. The data sources used primary and secondary data, and the data collection techniques were carried out by interviews, documentation and literature study. The data analysis was carried out qualitatively. The results of the research are: 1) The amount of underpayment payable tax in SKBKB is subject to an administrative sanction of 2% calculated from under or late payment of tax for a maximum period of 24 months from the due date of the tax. However, if the taxpayer reports himself before the audit is carried out, it is not subject to administrative sanctions; 2) The application of tax rates for the acquisition of land and building rights is set at 5% (five percent). Based on Perda No.2 of 2011 in Semarang City, the application of progressive tax is not imposed on each region. For example, the application of the acquisition value of non-taxable tax objects was not imposed on the research results conducted in Banjarnegara and Demak, while in the cities of Semarang, Kendal and Tegal, the acquisition value of Non-Taxable Tax Object was applied; 3) The role of PPAT is in charge of serving the requests in making certain land deeds and PPAT position regulations. The PPAT deed refers to a deed of agreement for the transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, grants, income in companies and other legal actions of transfer of rights, except for the transfer of rights due to auction which can only be registered if proven by deeds that made by an authorized PPAT.

**Keywords:** Imposition, Costs for Acquisition of Land and Building Rights (BPHTB), Taxpayers

### A. INTRODUCTION

Tax as a source of state revenue must be the main revenue because other sources of revenue, other than taxes such as natural resource management revenues are very limited, can be reduced or even run out. Therefore, people's awareness of paying taxes must be cultivated continuously so that taxes will become the main source to finance development.<sup>1</sup>

The large role given by taxes as a source of funds in National Development has led to the need to explore tax potentials that exist in society in accordance with the economic situation and conditions as well as the development of this nation. One of the tax potential sources that should be explored in accordance with the economic situation and condition as well as the current development of the Indonesian nation is the type of tax on land and / or building rights acquisition fees (hereinafter referred to as BPHTB).<sup>2</sup>

The imposition of BPHTB is borne by individual taxpayers or legal entities who transfer rights to land. BPHTB charges also occur in buying and selling transactions, so that the BPHTB charges are borne by the buyer, while the seller is only charged with PPh (Income Tax).

Based on Government Regulation of the Republic of Indonesia Number 34 of 2016 concerning Income Tax on Income from Transfer of Rights to Land and / or Buildings, and Agreement to Increase Sale and Purchase of land and / or buildings along with changes in the amount of Income Tax from the transfer of rights to land and / or buildings as referred to in Article 1 paragraph (1) letter a is equal to:

1. 2.5% (two-point five percent) of the gross value of the transfer of rights to land and / or buildings other than the transfer of hask over land / or building in the form of a Simple House or Simple Flat by taxpayers whose main business is to transfer rights over land and / or buildings;
2. 1% (one percent) of the gross value of the transfer of rights to land and / or buildings in the form of simple houses and simple flats by taxpayers whose main business is to transfer rights to land and / or buildings; or
3. 0% (non-percent) of the transfer of hask over land and / or buildings to the government, or state-owned enterprises that have received a special assignment from the Government, or regional-owned enterprises that have received a special assignment from the regional head, as referred to in law which regulates land acquisition for development in the public interest.

Expense in accounting terms, *expense* is a deduction from income that will produce net profit before tax on the profit / loss statement. Estimated, load is usually the type that is most abundant, even if it is simple. The Big Indonesian Dictionary defines imposition, namely the process, method, act of burdening or imposing, surrendering as an obligation.

In 2009, Law Number 28 of 2009 concerning Regional Taxes and Regional Levies was issued (hereinafter referred to as the 2009 PDRD Law), therefore BPHTB is no longer a central tax but a regional tax, the levy is not on the Central Government but on the Regional Government.

<sup>1</sup> Setu Setiawan, 2009, *Perpajakan Indonesia*, UMM Press, Malang, p.1

<sup>2</sup> Marihot Pahala Siahaan, 2005, *Bea Perolehan Hak Atas Tanah Dan Bangunan Dalam Teori Dan Praktek Edisi Revisi*, PT Raja Grafindo Persada, Jakarta, p.6

BPHTB tax, which has now been converted into regional tax, obliges the Regional Government to make regional regulations specifically regulating the imposition of the BPHTB tax. The content of these regional regulations, of course, refers to the BPHTB tax provisions referred to in Law Number 28 of 2009. Most of the regional regulations made by each region only transfer the BPHTB provisions contained in the law.

Based on the description above, in the framework of writing this thesis, the author tries to research, and analyze more deeply developments in the field of transfer of rights transactions and tax imposition where there is a progressive tax on the imposition of fees for the acquisition of land and building rights (BPHTB) on the transfer of rights. Over land and buildings of more than 1 (one) area in the city of Semarang, so that indirectly there has been income from tax collection to the Semarang City Government through the Regional Asset Financial Management Agency (BPKAD).

Research in order not to become widespread and widespread, it is necessary to limit the problem. The discussion of this research is only limited to the imposition of Fees for Acquisition of Land and Building Rights (BPHTB) for the Transfer of Rights to Land and Buildings. The Regional Regulation of the City of Semarang has not discussed in detail the transaction period for the acquisition of land and building rights (BPHTB) fees, but in its implementation, this requires a review in the application of BPHTB imposition in Semarang City.

## B. RESEARCH METHODS

Thus, the research conducted was to obtain data that has proven scientific validity, but to achieve scientific truth there are two historical thinking patterns, namely thinking rationally and thinking empirically or through experience. Therefore, to find a scientific method, the rational approach method and the empirical approach method are combined, here rationalism provides evidence or testing to ensure a truth.

### 1. The approach method

The Approach Method used in this research was the empirical juridical approach, meaning that the data obtained is guided by juridical aspects and is also guided by the empirical aspects used as a tool. Thus every problem that arises can be resolved juridically without obscuring other aspects, so that in addition to ensuring legal certainty, solutions to the problem are also found.<sup>3</sup>

Legal research that uses empirical methods is more non-doctrinal in nature, meaning that it uses primary data sources, namely data obtained directly from the community in addition to secondary data sources, namely data obtained through decision studies.

### 2. Research specifications

In this study the authors used descriptive analytical research method, which provides a picture of the situation under study as it is based on the facts at the moment.<sup>4</sup>

The results of the research are descriptive because this research is expected to be able to provide a detailed, systematic, comprehensive description of all matters relating to the imposition of BPHTB for the transfer of rights to land and buildings to taxpayers. The term analysis implies grouping, connecting and comparing matters related to the imposition of BPHTB for the transfer of rights to land and buildings to taxpayers. So that analytical descriptive can be interpreted as a detailed, systematic, comprehensive description of all matters relating to the imposition of BPHTB for the transfer of rights to land and buildings to taxpayers associated with legal theories and positive law implementation practices regarding the above problems.

### 3. Research Locations

The research was conducted in the city of Semarang, on the grounds that the city of Semarang is one of the areas that has a fairly rapid economic growth and the level of demand for boards (land and buildings) is also quite high, so the intensity level of transferring rights to land and / or buildings also quite high.

### 4. Data Sources

#### a. Primary Data

Primary data is the data obtained directly from the public. In field research, the data collection tool used was interviews using interview guidelines. Structured questions were asked, then deepened several questions to obtain further information and explanation. It is hoped that clear and complete information will be obtained.

Interviews were conducted on research subjects, namely interviews with:

- 1) 5 (five) Land Deed Making Officials (PPAT).
- 2) 2 (two) authorized officials at the Semarang City BPKAD Office.
- 3) 1 (One) authorized official at the BPN Office.

#### b. Secondary Data

Secondary data is the data that supports information or supports the completeness of primary data obtained from libraries and personal library collections, which are carried out by means of literature or literature studies.

### 5. Data Collection Techniques

Data collection techniques here mean a way to obtain the required data in the field. This is done so that data collection or extracting can be justified and truly accurate, correct, and does not deviate either before the research or during the research.

In this research, researchers used 2 data collection techniques, namely:

#### 1) Primary Data

<sup>3</sup> Ronny Hanitijo Soemitro, 1988, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, p.36.

<sup>4</sup> Ronny Hanitijo Soemitro, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, p.28.

Primary data is the data collection conducted by in-depth interviews aimed at gathering information. In the collection technique using an interview is almost the same as a questionnaire. This in-depth interview aims to gather complex information, most of which contains personal opinions, attitudes and experiences.<sup>5</sup>

To avoid loss of information, researchers asked the informants for permission to use a recording device. Before conducting an in-depth interview, the researcher explains or provides a brief and clear overview and background on the research topic.

2) Secondary Data

Secondary data is data collection carried out by means of library books / documentation. The documentation method is to find data about things or variables in the form of notes, books, newspapers, magazines, *gatherings*, meeting minutes, agendas, and so on.<sup>6</sup> This method researchers use to obtain data about general situations such as; Rules and Regulations.

6. Data Analysis

The data obtained in this study were then analyzed qualitatively, namely the data obtained were then compiled systematically, to be further analyzed qualitatively to achieve clarity regarding the Roles and Responsibilities of Land Deed Making Officials (PPAT) and implementation of Regional Regulation Number: 2 of 2011 concerning Acquisition Fees for Rights and Buildings.

7. Methods of Data Presentation

Data processing was carried out based on each data acquisition from field notes, reduced, described, analyzed, then interpreted. Data analysis for problems are more focused on exploring the facts as they are (*natural* setting), with in-depth analysis techniques (*proceduresverstegen*).

To provide an overview of the research data, the following procedure is carried out:

- a. Data presentation stage: data is presented in the form of an integrated description.
- b. Comparison stage: is the process of comparing the results of data analysis that have been described with data interpretation to answer the problems under study. The data obtained from the description will be compared and discussed based on the theoretical basis, which is stated in chapter 2.
- c. Presentation stage of research results: this stage is carried out after the comparison stage, which is then summarized and directed at conclusions to answer the problems that the researcher has raised.

## C. RESEARCH RESULTS AND DISCUSSION

### 1. The Imposition of Fees for Acquisition of Land and Building Rights (BPHTB) on Transfer of Rights to Land and Buildings to Taxpayers If there is underpayment

#### a. when taxes are owed

The provisions of article 9 paragraph (1) in Law Number 20 of 2000 contain the time when they are owed Taxes on the acquisition of land and building rights are as follows:

- a) Sale and purchase is from the date the deed of deed
- b) exchange is drawn up and is signed, is from the date theis drawn up and signed.
- c) Grant is from the date the deed is drawn up and signed.
- d) A will grant is from the date the deed is drawn up and signed.
- e) Inheritance is from the date the person concerned registers his transfer of rights to the Land Office.
- f) Entry in the company or other legal entity is from the date the deed is drawn up and signed.
- g) The separation of rights that results in the transfer starts from the date the deeds are drawn up and signed.
- h) The judge's decision is from the date the court's decision has permanent legal force.
- i) The issuance of new land rights as a continuation of the release of rights starts from the date of issuance of the letter / decision granting rights.
- j) The issuance of new rights other than waiver of rights shall be from the date of issuance of the decision granting rights.
- k) A business combination shall be effective from the date the deeds are drawn up and signed.
- l) Business consolidation shall be from the date the deeds are drawn up and signed.
- m) Business expansion shall be from the date the deed is drawn up and signed.
- n) Prizes are from the date the deed is drawn up and signed.
- o) The auction is from the date of the appointment of the auction winner.

#### b. Place of payable tax

Place of payable tax is in the area of a Regency, City or Province, which includes the location of land and / or building.

<sup>5</sup> Sulisty-Basuki, 2006, *Metode Penelitian*. Jakarta: Wedatama Widya Sastra dan Fakultas Ilmu Pengetahuan Budaya Universitas Indonesia, hlm. 173

<sup>6</sup> Arikunto, S. 2006. *Prosedur Penelitian: Suatu Pendekatan Praktik*. Jakarta: Rineka Cipta, hlm. 231

**c. Payment procedures**

Provisions for BPHTB payment procedures are contained in Article 10 of the BPHTB Law which is further elaborated by the Minister of Finance Decree Number 517 / KMK.04 / 2000 dated December 14, 2000 which is then followed up by the Director General of Taxes Decree Number 269 / PJ / 2001 dated 2 April 2001 and Circular of the Director General of Taxes Number 09 / PJ.6 / 2001 dated April 6, 2001, which are essentially as follows:

1. Payment is not based on the existence of a Tax Assessment Letter.
2. Paid by using a **Customs Deposit Letter (SSB)** to the State Treasury through a Bank / Post Office or other Payment Place designated by
3. **SSB which** also functions as an SPOP and is also used to report data on the acquisition of rights to land and / or buildings.

Obligation to pay when:

- a) Deed is drawn up & signed
- b) Registration of Right to Inheritance & Grant Wills
- c) pointed at Auction winner
- d) the signing of the Decision Letter granting the awarding Rights New
- e) Court decision that has permanent legal force

**d. Procedures for determination and Billing BPHTB**

- 1) Procedures for determination

Procedure for the determination of BPHTB arranged in chapters 11 and 12 as follows:

- a) in the run 5 years since the tax is payable, based on the results of the inspection there is an underpayment, the Directorate General of Taxes, in this case the Head of the PBB Service Office / KPP Pratama issues a BPHTB Underpaid Assessment (SKBKB) plus a fine of 2% per month for a maximum period of 24 months (48%)
- b) After the SKBKB was issued, there were new data again, so Pa If the debt increases, the Head of the PBB Service Office / KPP Pratama issues an additional underpaid BPHTB (SKBKBT) stipulation plus an administrative sanction of 100% of the increase, unless the taxpayer reports before an audit is conducted.

- 2) Payment Procedures

Provisions for the BPHTB payment procedure are contained in article 10 of the BPHTB Law which is further elaborated by the Minister of Finance Decree Number 517 / KMK.04 / 2000 dated December 14, 2000 which was then followed up by the Decree of the Director General of Taxes Number 269 / PJ / 2001 dated 2 April 2001 and Circular of the Director General of Taxes Number 09 / PJ.6 / 2001 dated April 6, 2001, which in essence are as follows:

- 1) Payment is not based on the existence of an assessment letter for Taxes
- 2) Paid by using a **Tax Payment Letter (SSB)** to the State Treasury via the Bank / Post Office or other Payment Place designated by
- 3) **SSB** also functions as SPOP and is also used to report data on the acquisition of rights to land and / or buildings.

Obligation to pay when:

- 1) Deed making and signing
- 2) registration of rights for inheritance and inheritance grants are drawn up,
- 3) the winner of the auction is appointed
- 4) the signing of the Decision Letter concerning the granting of the rights in terms of New Rights
- 5) Court Decisions that have permanent legal force

**e. Taxpayer Rights to Objection, Appeal and Reduction of BPHTB**

- 1) Objection of BPHTB

Within 3 months of receipt of the SKP which can be proven by postmark, taxpayers can file objections to:

- a) Assessment Letter of Tax on Acquisition of Rights on Land and Building (SKBKB),
- b) Underpaid Tax Assessment Acquisition of Land and Building Rights for Additional Underpaid (SKBKBT),
- c) Notice of Tax on Acquisition of Rights on Land and Building Overpayment (SKBLB),
- d) Notice of Tax on Acquisition of Land and Building Rights (SKBN).

Requirements for submitting objections;

- a) Submitted in writing in the Indonesian,
- b) The amount of tax payable according to the calculation of the taxpayer with clear reasons by stating data or evidence that the amount of tax due or overpayment determined by the tax authorities is incorrect,

Objections that do not meet the requirements are not considered as objection letter so that it is not considered. DGT must make a decision on the objection whether to accept, reject or even increase the amount of tax payable within a maximum period of 12 months from the date the assessment letter is received.

## 2. Application of Progressive Tax on Transfer of Land and Building Rights in Semarang City According to Regional Regulation Number 2 of 2011 and Comparison with Other Districts

### a. Application of Progressive Tax in Semarang City

The authority of local governments to make regional regulations regarding taxes is clearly specified in Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions of Article 95 paragraph (1), namely "Taxes determined by Regional Regulation". This provision clearly instructs local governments to make regional regulations that specifically regulate taxes that have been transferred to the regions.

Regional Regulations on Acquisition Fees for Land and Building Rights provide legal certainty regarding tax subjects, tax objects, tax rates, and tax collection methods. This Regional Regulation on Acquisition Fees for Land and Building Rights also regulates sanctions and penalties for each tax violation. The accumulated collection of fees for the acquisition of land and building rights is an original regional income that is very useful to finance development in the city of Semarang.

A progressive tax rate is a tax rate with a greater (increasing) percentage if the amount on which the tax is based increases (increases). In other words, a progressive rate is a tax rate where the percentage of acceptance increases as the amount to be taxed increases. The imposition of this rate is primarily aimed at subjective taxes that take into account the carrying capacity of the taxpayers.

The principal amount of Land and Building Acquisition Fee owed is calculated by multiplying the rate as referred to in the Regional Regulation of the City of Semarang Number 2 of 2011 concerning Fees for Acquisition of Land and Building Rights (BPHTB) Article 6 with the basis for the imposition of BPHTB tax as referred to in Article 5. paragraph (1) after deducting the Acquisition Value of Non-Taxable BPHTB Tax Objects as referred to in Article 5 paragraph (7) or paragraph (8).<sup>7</sup>

### b. Comparison of the Application of Progressive Taxes in Other

#### 1) The Regulations of Kendal and Tegal Regencies

The Article 73 of the Regional Regulation of Kendal Regency Number 11 of 2011 concerning Regional Taxes regulates that the Tariff for Acquisition of Land and / or Building Rights is set at 5% (five percent) of the tax base. Article 74 paragraphs (1) and (2) explain that:

a) The principal amount of fees for the acquisition of rights to land and / or buildings owed is calculated by transferring the rate as referred to in Article 73 on the basis of the imposition of taxes as referred to in Article 71 paragraph (1) after minus NPOPTKP as referred to in Article 72

b) In the event that the NPOP as referred to in Article 71 paragraph (2) letter a to letter n is unknown or lower than the NJOP used in the imposition of Land and Building Tax in the year the right is acquired, the principal amount of Tax owed is calculated by transferring the rate as referred to in Article 73 with NJOP of Land and Building Tax after deducting the NPOPTKP as referred to in Article 72. Each region has a Regional Regulation to determine the tariff for Acquisition of Rights on Land and / or Buildings, other than Kendal Regency which regulates Tariffs on Acquisition of Rights on Land and / or Buildings with Regional Regulations only is Tegal Regency. In the Regional Regulation of Tegal Regency Number 1 of 2012 concerning Regional Taxes on the basis of 74, it is explained that the Tariff for Acquisition of Rights on Land and / or Buildings is set at 5% (five percent) of the basic imposition of taxes, in Article 75 paragraph (1) and (2) , explains that:

1) The amount of tax on Acquisition of Rights on Land and / or Buildings owed is calculated by multiplying the rate as referred to in Article 74 with the tax base as referred to in Article 72 paragraph (1) after deducting the NPOPTKP as referred to in Article 73

2) . NPOP as referred to in Article 72 paragraph (2) letter a to letter n is unknown or lower than the NJOP used in the imposition of Land and Building Tax in the year the right is acquired, the principal amount of Tax owed is calculated by multiplying the rate as referred to. in Article 74 with Land and Building Tax NJOP after deducting NPOPTKP as referred to in Article 73

From the 2 (two) Regional Regulations, it can be seen that the tariff for the acquisition of land rights and / or buildings is set at 5% (five percent) of the tax base. The transfer of authority to collect and manage BPHTB will have an impact on increasing Local Own Revenue, because revenue from local taxes is the largest source of Regional Original Revenue for Regency or City Governments in Indonesia. The greater the Regional Original Income of an area, the positive implications for the progress and acceleration of the development of an area which is ultimately used for the prosperity of the people.<sup>8</sup>The entry of BPHTB into regional taxes, the local government will receive 100 percent of the results of the BPHTB collection by the Regional Government. Unlike before, where the results of BPHTB collection were shared with the Central Government.

#### 2) Banjarnegara Regency

According to the Banjarnegara Regency Regional Regulation Number 16 of 2010 concerning Regional Tax, Article 54 states that the tax year is a period of less than 1 (one) calendar year, the time that determines the tax payable is according to the state of the tax object on January 1 and the place where the tax owes. is in a regional area covering the location of the tax object.

Officials who have a very big role in assisting the duties of the BPKAD office (hereinafter referred to as Bapenda) to secure regional revenue from the tax sector are PPAT.<sup>9</sup>

<sup>7</sup> Budi Prasetyo, Head of Sub-Division of Dafda for Tax Division I of BPKAD, Interview on April 11, 2017

<sup>8</sup> Zulkarnain Karim, 2012, "Pengalihan Dan Pengelolaan PBB Dan BPHTB", <http://www.jawapost.com>, di akses pada tanggal 9 Maret 2017

<sup>9</sup> Eko Pradita Ningrum, PPAT di Banjarnegara, Wawancara pada tanggal 25 Juli 2017.

3) Demak Regency

According to Regional Regulation Number 30 of 2012 concerning Regional Taxes, Article 53 states that the tax year is less than a period of 1 (one) calendar year, the time that determines the tax payable is according to the state of the tax object on January 1, the place for collecting taxes payable is in the region.

In the Demak Regency Regional Regulation Number 4 of 2011 concerning BPHTB Article 5 explains that the Tariff for Acquisition of Rights on Land and / or Buildings is set at 5% (five percent) of the tax base, in Article 6 paragraphs (1) and (2), explains that:

- a) the amount of tax tax on Acquisition of Land and / or buildings are calculated by shift rate referred to in Article 74 and the tax base referred to dalam Article 72 paragraph (1) after deducting NPOPTKP as referred to in Article 73.
- b) in the event The NPOP as referred to in Article 72 paragraph (2) letter a to letter n is unknown or lower than the NJOP used in the imposition of Land and Building Tax in the year the right is acquired, the principal amount of Tax owed is calculated by transferring the rate as referred to. in Article 74 with Land and Building Tax NJOP after deducting NPOPTKP as referred to in Article 73

**3. Role and Responsibilities of Land Deed Making Officials (PPAT) in implementing the Transfer of Rights to Land and Buildings.**

The ongoing development results in the structural and functional dimensions of the land system in the field changing according to developments. One of the striking changes is the rapid movement of land caused by buying and selling, leasing, inheritance, waqf, grants and land acquisition by the government. This will result in a high frequency of transactions before a Notary Public / PPAT, as an official who has the authority to validate transactions.<sup>10</sup>

The Official for Making Land Deeds (PPAT) is a public official who is given the authority to make authentic deeds regarding certain legal actions regarding land rights or ownership rights over apartment units.

a. Main Duties and Authorities of the PPAT

Based on Article 2 paragraph (1) Government Regulation No. 37/1998 the main task of PPAT is to carry out some land registration activities by making deeds as evidence of changes in certain rights regarding Land Rights or Property Rights to Apartment Units, which will be used as the basis for registering changes in land registration data resulting from such legal actions. . There must be a standardization in accordance with the law in every land office. To carry out these main tasks, PPAT has the authority to make authentic deeds regarding all legal actions regarding land rights and property rights over Flats and is located in its working area. The PPAT specifically only has the authority to make deeds regarding legal acts that are specifically mentioned in the appointment. These legal actions include buying and selling, exchanging, grants, sharing joint rights, granting Building Use Rights / Right to Use Land Ownership Rights, granting Mortgage Rights and granting the power to impose mortgage rights (SKMHT).

Article 1 of Law Number 30 Year 2004 concerning the Position of Notary Public (UUJN) defines a Notary as a public official who has the authority to make authentic deeds and other powers. In Article 15 UUJN Notary has the authority to make authentic deeds regarding all acts of agreement, and the provisions required by the Legislation and / or which the interested party wants to be stated in an authentic deed, guarantees the certainty of the deed making date, keeps the deed, gives *grosse*, copy and excerpt of deed. Apart from the aforementioned powers, the Notary Public also has the following powers:

- a. Ratifying signatures and determining the date of the letter under hand by registering in a special book.
- b. Booking the unauthentic letters by registering in a special book.
- c. Making photocopies and originals of the letters under hand in the form of a copy containing the description as written and described in the letter concerned
- d. Verifying the compatibility of the photocopied with the original letter.
- e. Providing legal education in connection with making deeds.
- f. Making deeds related to land.
- g. Preparing a deed of auction minutes.

Judging from this authority, a Notary has wider authority than a PPAT. The difference between PPAT and notary from the way it works is that the scope of work of PPAT is only per region or per city, while a notary is authorized to make deeds as long as the legal action carried out is within its working area. For example, a notary who is located in Semarang can make deeds up to the Kendal area, Demak because it is included in its working area, namely Central Java Province.

b. Implementation of Deed Making by Land Making Officials

At the time the deed is signed, the form of the deed is first filled with the name PPAT along with witnesses from PPAT whose working area includes the area where the object of the land title is located, and the names of the parties, objects sale and purchase based on documents and data that have been submitted by the parties. The deed was then read out by PPAT to the parties and after the parties had understood the contents of the deed, the parties signed the deed, then witnesses and PPAT. The PPAT Deed is made in the form stipulated by the Minister. All types of PPAT deeds are assigned one serial number that is repeated at the beginning of the calendar year. The PPAT Deed is made in the original form in 2 (two) sheets, namely: a) 1 (one) copy of the first sheet is kept by the PPAT concerned, and b) the second sheet of 1 (one) copy or more according to the number of land rights or the ownership rights to the apartment units as the object of legal action in deed submitted to the Land Agency for

<sup>10</sup> Nasucha Chaizi, 1995, *Politik Ekonomi Pertanahan dan Struktur Perpajakan Atas Tanah*, Megapoin, Jakarta, p. 101.

registration. In the case of the act on the empowerment of the Charge of Liability, it is communicated to the authorities for the policy of enacting the Deferred Rights Act, and to the interested parties a copy may be given. The PPAT Act must be read / explained its contents to the parties in the presence of at least 2 (two) witnesses before being signed immediately by the parties, witnesses and PPAT.

a. Transition of Land Rights through Sale and Purchase

The transfer of rights to land is a legal act of transfer of land rights done intentionally so that the right is detached from the holder again and becomes the right of another party. Since the occurrence of UUPA, the transfer of land rights can be done through sale and purchase, conversion, grants, grants by will, grants by custom and other acts intended to transfer ownership.

Proof that the right to the land is transferred, then it must be proven by an act made by and before the PPAT, namely the deed of sale and purchase which will then be the basis for registration of changes in land registration data as referred to in the provisions of Article 95 paragraph 1 letter a Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency No. 3 of 1997. The Sale and Purchase Act made in front of the PPAT aims to provide legal certainty to the rights holder on a piece of land (land buyer).

b. The Role of PPAT in Land Registration

In the implementation of land administration, land registration data recorded in the Land Office must be in accordance with the state of the land area concerned both involving physical data and land juridical data. In the recording of juridical data, especially the recording of data changes that have been recorded before, the role of PPAT is very important. The function of PPAT is to make the Land Transfer Act, Land Rights Charge and other acts.<sup>11</sup> PPAT is also responsible for assisting the Head of the National Land Office in carrying out land registration by making certain acts as proof that he has committed certain legal acts regarding land rights and or buildings that will be the basis for proof of land registration.

In providing services to the community, a PPAT is responsible for serving applications to makeland acts certain mentioned in the regulations regarding land registration and PPAT Department regulations. In the face of such applications PPAT must decide to reject or grant the relevant application.<sup>12</sup>

PPAT as a public official, then the act he made was given the position as an authentic act, that is, an act made to prove the existence of certain legal acts that resulted in the transfer of rights to land and buildings.

After the application and completeness of the file is submitted to the Land Office, either by the buyer himself or PPAT on the authority of the buyer, then the Land Office will provide proof of receipt of the application back name to the applicant. Subsequently, the Office of Defense will do the erasure on behalf of the old rights holder, to be later changed to the name of the new rights holder.

For self-checking, can go directly to the BPN office in accordance with Article 34 PP No. 24/1997, BPN will check the authenticity of the certificate based on the registration map, land register, survey letter, and land book. For the check period usually can be 1 day or at least 3 days If according to BPN is secure, the certificate will be stamped. However, if the BPN assesses any irregularities, they will usually file a plotting.

## D. CONCLUSION

### 1. Conclusion

From the discussion earlier chapters can be summed up as follows:

- a. BPHTB Setting regulated in Law Number 20 of 2000, article 11 and 12 that within a period of 5 years from the tax payable by the results of the examination are underpaid, the Directorate General of Taxes in this case, the Head of PBB / KPP Pratama Office publishes BPHTB Less Payment Decree (SKBKB). An administrative sanction of 2% per month is calculated from taxes that are less or less paid for a maximum period of 24 months (up to a maximum of 48%) calculated from the date of tax arrears. As for the tax deficit owed in SKBKBT is subject to administrative sanctions in the form of an increase of 100% of the total tax deficit, the repayment period of the SKB is 1 month from the date of issuance of the decree. However, if the Taxpayer reports himself before the inspection then the increase is not charged.
- b. The authority of the local government to make regional regulations on taxes is clearly defined in Law Number 28 of 2009 on Regional Taxes and Regional Taxes Article 95 paragraph (1) which is "Taxes are stipulated by Regional Regulations". These provisions clearly require the local government to make regional regulations that specifically regulate the taxes that have been transferred to the region. Each region has Regional Regulations to determine the rate of Acquisition of Land Rights and / or Buildings.

Regional Regulations on Land and Building Acquisition Fees provide legal certainty regarding the subject of taxes, tax objects, tax rates, tax collection methods. The Regional Regulation on Land and Building Rights Acquisition Fees also regulates the penalties and penalties for each tax violation. The application of the Land and Building Rights Acquisition Tax rate is set at 5% (five percent). Based on Regulation Number 2 of 2011 City of Semarang. Application of Acquisition Value of Non-Taxable Tax Objects (NPOPTKP) is not applicable in each region as an example of the application of Value Acquisition of Non-Taxable Tax Objects (NPOPTKP) is not applicable to research results conducted in Banjarnegara and Demak, while in Semarang, Kendal and Tegal are applied Non-Taxable Tax Object Acquisition Value.

<sup>11</sup> Chomzah Ali Achmad, 2016, Taxation Theory and Case, Fourth Institution, Jakarta. p.67.

<sup>12</sup> Dewi Padusi Daeng Muri PPAT Semarang, Interview on July 27, 2017.

- c. PPAT's role in providing services to the community includes applications in making certain land acts mentioned in the regulations regarding land registration and PPAT department rules. In the face of such applications PPAT must decide to reject or grant the relevant application. PPAT as a public official, then the act he made was given the position as an authentic act, that is, an act made to prove the existence of certain legal acts that resulted in the transfer of rights to land and buildings. The PPAT Act in question makes the deed of transfer of rights to land and title to the apartment unit through sale, exchange, grant, incorporation in the company and other legal acts of transfer of rights, except transfer of rights due to auction which can only be registered if evidenced by the deed made by an authorized PPAT. And if the deed of transfer of rights to the land and ownership of the apartment unit has been registered by the Head of the Land Office in the register of land books, then the head of the Land Office gives a certificate of land rights or ownership of the apartment unit concerned to the buyer.

## 2. Suggestions

- a. Local Government should provide socialization on BPHTB so that people better understand the terms of taxation, especially BPHTB. In the BPHTB collection, cooperation is expected so that there is a good cooperation between management, the executive officer of the collection, notary, and taxpayers in terms of all the processes involved in the collection BPHTB so that its implementation can run smoothly and can improve the Local Government of the Region (PAD). To have issued its Regional Regulations on the implementation and / or application of BPHTB collection in their respective areas to agencies and / or related parties such as to the National Land Agency, PPAT, tax consultants and the public.
- b. There is a need for standard Regional Regulations to attract the Acquisition Value of Non-Taxable Tax Objects (NPOPTKP), so it is expected that the application of government regulations for regional taxes through the Mayor's Regulations, especially for the determination of time during the transfer of Land and Building Rights by taxpayers 1 plot of land.
- c. It is hoped that the role of PPAT as a public service in the process of transfer and transfer of rights to land and buildings will be facilitated.
- d. It is hoped that the public service will increase.
- e. It is hoped that the tax collection results can be utilized for the welfare of the people through small people's subsidies, free school facilities and regional development. And in order to ensure all this is done, it is hoped that the Government can be fair in monitoring the use of the state budget properly.

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