LEGAL CERTAINTY IN DETERMINING THE AMOUNT OF LAND AND BUILDING RIGHTS ACQUISITION DUTY TAX (BPHTB)

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**Abstract**

The research carried out in Jayapura City with the title “Legal Certainty in Determining the Amount of Tax on Acquisition of Land and Building Rights” (BPHTB) aims to provide legal certainty regarding the imposition of Tax on Acquisition of Land and Building Rights (BPHTB) in determining the amount of BPHTB tax. The method used is normative law and empirical law in relation to land and building tax collection.

In accordance with applicable laws and regulations, BPHTB levies in Jayapura City do not yet have complete legal certainty. Tax Object Acquisition Value (NPOP) transaction value is no longer used as a basis for determining BPHTB tax, in Jayapura City the basis for determining BPHTB is the interpretation made by the tax authorities based on market prices, location of land and buildings and building conditions. This happens because of society’s tendency to try to get around it BPHTB financing. Taxpayers declare the transaction price in accordance with the NJOP if the market price or transaction value is greater than the Sales Value of the Tax Object (NJOP). Taxpayers will also try to avoid it if the Tax Object Acquisition Value (NPOP) is lower than the Tax Object Sales Value (NJOP). The obstacles faced in collecting BPHTB are legal factors, factors outside the law and taxpayer factors.

**Keywords:**
Legal certainty; Land and Building Acquisition Tax (BPHTB)
I. Introduction

There are two types of taxes that are imposed on the transfer of rights to land and/or buildings and are imposed on both the purchaser and the seller in the transaction. Land acquisition fees (BPHTB) and income tax (PPh) are two types of taxes. BPHTB, or country tax which is borne by the owner and reported to the local tax office. For individual tax subjects in the country, PPh is a type of tax that is collected periodically by the central government (central tax), and the tax burden cannot be transferred to other parties (direct tax).

The enactment of Law Number 1 of 2022 concerning financial relations between central government and regional governments ratifies Law No. 28 of 2009 regarding Regional Taxes and Regional Retributions, also regarding financial balance between central government and regional government, namely Law no. 33 of 2004.

Regional governments are given the authority to collect taxes and levies based on Law Number 1 of 2022 which regulates financial relations between central governments and regional governments. This authority is characterized by strengthening the reorganization of various types of taxes, providing new sources of regional taxes, streamlining costs, and aligning them with government regulations.

The enactment of Law Number 1 of 2022 aims to: (1) eliminate duplication in tax collection by harmonizing the integrity of central and regional taxation; (2) facilitate tax administration so that the benefits are greater than the costs of collection; (3) ease of regionally integrated monitoring of tax collections; (4) assisting the general public in fulfilling their tax obligations.

The acquisition of rights to land and/or buildings is a tax object in Law no. 20 of 2000, which amended Law no. 21 of 1997, regarding the acquisition of land and building rights. The following are examples of rights to land and/or buildings acquired in accordance with article 2 paragraph 2 of this law: transfer of rights to land include: sale, exchange, gift, will, inheritance, making a partnership or other legal entity, transfers caused by the division of rights, the appointment of a relinquishment, the entry into force of a judge’s decision which becomes law forever, business mergers, business liquidation, business growth, gifts, and the imposition of new rights as a result of continued dispossession of rights.

Determination of Land and Building Tax Acquisition Fees or what we call BPHTB for the transfer of rights as a result of buying and selling, which is one of the legal events that will be studied in this research. The transaction price which is the basis for assessing Land and Building Tax Acquisition Fee is also called Tax Object Acquisition Value or NPOP when rights to land and buildings
are transferred through sale. The basis for tax relief is the certain sale value of taxable goods for land and buildings in an area if the acquisition value of taxable goods is unknown or is greater than the sale value of taxable goods or NJOP used to collect land and building tax in the year of acquisition. In substance, the law must be accurate and fair. The question of legal certainty can only be answered normatively, not sociologically. Certainty of rules, especially when a standard is created and stated with certainty because it is regulated and decided without doubt and with certainty.

In particular, the amount of BPHTB transfer of rights in connection with the sale and purchase carried out in Jayapura City has several procedures, namely the party who obtains the rights to land and buildings or their proxies submits an application for the transfer of rights to land and buildings, then government officials, in this case BAPPENDA Jayapura City This includes field surveys of motorbike taxis buying and selling land and buildings. In the survey, the location or location of the land and buildings and the condition of the buildings are assessed. In determining the costs of obtaining tax objects, which will be interpreted by the official carrying out the field survey as not being in accordance with the mandate of Article 6 paragraph 2 letter a Jayapura Regional Regulation No. 4 of 2011 regarding Land Acquisition and Building Use Rights, the basis for imposition of tax is the acquisition value of the tax object, the acquisition value of the tax object due to the sale and purchase is the transaction price, but the reality that occurs in the field is that the NPOP is due to the sale and purchase carried out by Bappeinda employees with price interpretation. markets, zoning, and according to the subjectivity of collection officers, thereby giving rise to legal uncertainty.

In connection with the clarification above, researchers would like to explore more deeply regarding Legal Certainty in the Definition of Tax Fees for Acquisition of Land and Building Rights (BPHTB) in the City of Jayapura, the problem is as follows.

Formulation of the problem

According to the explanation above, the problem is:

1. What is the legal certainty in determining the amount of Land Acquisition Tax and Building Use Rights (BPHTB) in Jayapura City?
2. What obstacles does the regional government of Jayapura City face in implementing a tax collection system for land acquisition and building use rights?

2. Research Method

1. Research sites

This study was conducted in the city of Jayapura based on the many problems with BPHTB tax enforcement in the city of Jayapura.

2. Approach method
Normative legal independentization and empirical legal independentization are the independentization carried out in this research. Legitimate administrative methodology is used to consider valid standards or standards in connection with problems that arise in the implementation of Law Number 20 of 2000 regarding Amendments to Jayapura City Regulations Number 21 of 1997 regarding Retribution for the Acquisition of Land and Building Rights 4 of 2011 regarding Reply to Indam on Security of Land and Building Security, PP No. 1 of 2022 concerning Financial Relations between the Central Government and the Regional Government.

To determine the population and samples that are relevant to this research and obtain data, the empirical legal method examines how the rules governing the BPHTB tax apply in society. All things, people, phenomena, events, or units to be studied form a population.

This research uses purposive sampling techniques where subjects are selected for specific reasons. Three employees of the Jayapura City Revenue Service, two Land Deed Maker Officials, and six Jayapura City BPHTB taxpayers were the research and population samples. Information was obtained through organized interviews.

3. Data analysis

The author used the descriptive analysis method to analyze the data. This shows that the data has been collected, grouped and described systematically according to the facts, characteristics and actual relationships between the events investigated to provide insight. Analysis determines the boundaries of the discussion, ensuring that there is no ambiguity and that the discussion remains on topic.

3. Results and Discussion

Legal Certainty in Determining the Amount of Tax on Acquisition of Land and Building Rights (BPHTB) in Jayapura City

Land Rights Acquisition Fee (BPHTB) is a tax imposed on citizens who gain profits from land and buildings. As is the case in Article 33 paragraph (3) of the 1945 Constitution (1945 Republic of Indonesia Constitution) which states “earth, water and natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people.” One of the meanings of earth is land which is a gift from God Almighty, which is very profitable for humans. BPHTB can also be described as a tax imposed on the acquisition of rights to land and/or buildings, hereinafter referred to as Tax.

1For citizens of northern countries to be able to obtain legal protection to protect their tax obligations, especially the rights to land and property rights, they must have legal guarantees, which are permitted, as well as knowing the

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consequences of violating the law. citizens of the country," said the message of huikuim's belief. Huikuim provides certainty when huikuim can encourage the way in which individuals behave, whether people or deliberations, will be united and exist within the path described by huikuim and order itself.

Legal certainty is the most important thing in maintaining order for everyone's behavior, but if law does not have certainty and value it will lose its meaning. The word "certainty" can mean several things, including "clear", "does not give rise to ambiguous interpretations", "can be implemented", "be implemented firmly in society", and "support certainty" so that everyone can understand the intuitiveness of law. Because one song should not conflict with the others, so it does not raise any questions.

There are several references to BPHTP tax regulations, namely:

a) Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments

The birth of Uindang-Uindang: Uindang-Uindang Number 1 of 2022 which commemorates the financial dispute between the central government and the regional government of Meincabuit UiUi No. 28 of 2009 regarding Regional Tax and Regional Retribution in addition to canceling part of UiUi No. 33 of 2004 regarding the Financial Balance between the Central Government and the Regional Government, Articles 1 to 4, Articles 288 to Article 291, Article 296, Article 302, Article 324, and Article 325 Laws Number 23 of 2014 regarding the Regional Government , Article 1 Number 30, Article 1 Number 38, Article 1 Number 47-49, and Article 245 regarding Regional Taxes and Regional Retribution. 23 Tahuin 2014 Article 244 Leimbaran Neigara Reipublik Indonesia Deintang Peimeirintangan Daeira.

Regional governments are given the intuitive authority to regulate taxes and retribution based on Law Number 1 of 2022 which regulates financial relations between the central government and regional governments. This authority is given to regional governments with the aim of implementing tax regulations by seeking to reimburse types of taxes collected, providing new regional tax sources, creating retribution ideas, and aligning them with the government’s regulatory regime.

b) The purpose of paragraph (2) concerns the acquisition of rights to land and/or beirbuiny buildings:

1. transfer rights due:

   1) jual beli;
   2) penukaran;
   3) grant;
   4) testamentary grant;
   5) inheritance;
   6) entrya company or legal; _.
7) separation rights which transfer;
8) use combination;
9) the judge who mastered event court proceeding

10) u share combination;
11) u;
12) the for legal; or
13) present;

3. sustainable waiver of rights; or beyond the waiver of rights.

The purpose of paragraph (3) which refers to rights to land and/or buildings as intended in paragraph (1) means:
1) right of ownership;
2) Guna Usaha rights;
3) na Bangu rights;
4) use rights;
5) rights over a ... And
6) nge rights.

Paragraph (6) What is meant by "the implementation of BPHTB’s objects, namely the acquisition of rights to land and/or buildings:
1) for state, government, government and state are accountable ... or belonging to the area;
2) by Neucmenelenguing pemng and/or minileinonunitongutini
     gitionmunum;
3) bodies or ... not out business or other activities ... the ... the body ... represent lembaga tebut, which is governed by Lit Artetun
4) The of diplomatic and consular is the of reciprocity
5) an ... entity is individual an ... an obligation to ... to an agreement ... others without reference to;
6) By individuals or legal because waqf
7) private law that purely for religious ... And
8) Intuitively has beautiful income in the queen of society ...

There is something that is a subject of BPHTB’s tax relief, namely "an individual or legal entity that receives rights to land and/or buildings". Meanwhile, those who become BPHTB taxpayers are "individuals or entities that receive rights to land and/or buildings".2

In Article 46 paragraph (1) of the law concerning financial relations between central government and regional government, the basis for imposition of BPHTB is the acquisition value of the tax object. Paragraph (2) The acquisition value of the tax object as intended in paragraph (1) is determined as follows: specifically for the transfer of rights by sale and purchase, the basis for
2Article 45 of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments.
imposition of BPHTB IS the transaction price.

In the event that the acquisition costs of the object of acquisition are not clearer or are greater than the NJOP used in the acquisition of land and building fees in the year the acquisition occurs, then the reason for the BPHTB imposition is the NJOP used in the acquisition of land and building taxes in the year the acquisition occurs.

c) UU no. 20 of 2000 concerning Amendments to Law no. 21 of 1997 concerning Acquisition Fees for Land and Buildings

In this mechanism of tax in this law is regulated 6. The basis for calculating tax is the value of the tax. Tax Object Acquisition Value, in the case of:
1) Ju al be li i.e. price;
2) The i.e. market _
3) Grants i.e. value;
4) Will grant i.e. value;
5) Inheritance i.e. value;
6) Income in a or market ; _ _
7) Distribution rights resulting of , namely market .
8) Transfer rights court of the of opinion which has in with the court actions , it matter consequence . market value;
9) The of to new a of the assignment of namely market .
10) The of new rights land, in to of , market value
11) Shareholders ' is market _
12) Consolidation of i.e. market ;
13) The for capital is market.
14) The prize is market value;
15) The of pei transaction at the is transaction price specified the .

In the event that the acquisition value of the property object as mentioned in paragraph (2) letter a to number n is not clear or is greater than the usable value of the object, the cost used as a charge for Land and Building Costs in the realization of acquisition. However, what happens is that the basis of fees used is the transaction value of land and building fees. (3) not yet determined, which means that Meinteiri determines the sale value of Buimi and Banguinan Tax objects.

d) Jayapura City Regional Regulation Number 4 of 2011 concerning Land Acquisition Fees and Building Use Rights

Article 6 paragraph 1 explains the basis for BPHTB's tax reduction in this regulation is a. the selling price of beili is the transaction; b. exchange is value in the market; c. grants are value in the market; d. the will price is the market price; e. market value is inherited; f. the market value of a company or other legal entity is income; g. market value is the separation of rights that results in transfer; h. market value is the transfer of rights following the implementation of a judge's decision which has permanent legal force; i. market value is a
continuation of the assignment of rights with the imposition of new rights to land; j. market value is the imposition of new rights beyond the exposition of rights; k. market value is the business combination; l. market value is business consolidation; m. market value is business expansion; n. the prize is value in the market; and/or o. The transaction price stated in the auction minutes is an indication of the price in the auction.

NJOP is the basis for the acquisition of Land and Building Tax if the Acquisition Price of the Tax Object as intended in paragraph (2) letters a ton is unknown or is greater than the NJOP in the year in which the acquisition occurs.

If the NJOP for land and buildings is not completely determined when payment is made, then the NJOP for land and building costs can be determined in the NJOP Land and Building Valuation Report.

The amount of acquisition value of tax-exempt goods is set at IDR 60,000,000.00 (ein sixty million Rupiah) for each taxpayer. In the event that the acquisition of rights through inheritance or testamentary inheritance is received by people who are still related by blood in a straight family line, one degree above or one degree below the relationship with the heir, including husband/wife, the acquired value of the tax object is not subject to tax. namely 300,000,000.00 (three hundred million rupiah). The rate for acquiring rights to land and buildings is set at 5% (five shares).

The basis for BPHTB's tax assessment is clearly determined in the above terms, namely the Value of Tax Objects which is the basis of tax assessment, the Value of Tax Objects (NPOP) in sales which is supposed to be based on the transaction price but in reality is uncertain, because it is the basis of tax assessment of the acquisition of rights. on land and buildings resulting from buying and selling in Jayapura City is not based on the transaction price, but in some cases, the determination of the amount of BPHTB resulting from land and building sales transactions in Jayapura City is determined based on interpretation and results of field surveys conducted by the Regional Revenue Management Agency (BAPPEiNDA) taking into account market prices, location of land and buildings, building conditions, as a result there is no legal certainty in determining the amount of BPHTB tax in Jayapura City. Because it is possible to make an assessment based on the subjectivity of field officers, however, if the subject of BPHTB objects to the interpretation made by the government, an offer can be made regarding the sale value of the land and building tax object.

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3 Article 7 Jayapura City Regional Regulation Number 4 of 2011 concerning Land Acquisition Fees and Building Use Rights
Another problem that arises is that the fees for acquiring land and building rights set by the Regional Revenue Management Agency are higher and do not match the sale and purchase transaction prices regulated in the provisions of Uindang-Uindang Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, subject to consent. According to this principle, the subject of the BPHTB is a person or legal entity and the obligation to pay land acquisition fees and land ownership rights is based on a system of ownership and ownership rights which is not subject to the same in the tax assessment of Land Rights Acquisition Fees and Building in Jayapuira City. This is based on several cases that researchers encountered in the Seipeirti Kasuis Juial Beili field on a plot of land in Heiram Jayapuira Regency with an area of ± 72/m². The sale of Beili Teirseibuit was agreed upon by both parties at a price of IDR 350,000,000.00 (five million rupiah). BPHTB’s verification request was increased by BAPPENDA because it was deemed acceptable for the parties not to sell at a fixed price and it was deemed that the agreed price was too good. Then there is also the sale and purchase of land and buildings in Waena Village, Heram District, submissions for sale and purchase transactions with a land and building area of 115/m² are interpreted by BAPPENDA according to the transaction value, namely Rp. 250 million, then there is also a determination of BPHTP by BAPPENDA in Waena Village, Heram District with a land and building area of 120/m² which is interpreted as higher than the value of the sale and purchase transaction, however if the BPHTB tax subject objects to the interpretation issued by BAPPENDA, this is done by BAPPENDA because there are some taxpayers who are dishonest in providing information regarding the actual sale and purchase transaction prices of land and buildings, however, if a taxpayer objects to the price interpretation issued by the government, they can submit an objection, and there will be renegotiations regarding the interpretation of the sale and purchase price. which of course creates legal uncertainty in determining the amount of BPHTB tax.

e) What Obstacles Face the Government and the Community of Jayapura City in Implementing the Tax Collection System for Acquisition of Land and Building Rights?

Because the tax on the acquisition of land and building rights is a balanced tax in response to changing socio-economic conditions, ensuring accurate payments on the acquisition of land and building rights continues to be a challenge, even in the City of Jayapuira. This indicates that a sale and purchase transaction has occurred which is related to the sale and purchase deed before the Land Deed Registration Officer, but the BPHTB has not yet been paid. Apart from that, the interpretation of the sale and purchase price carried out by BAPPENDA certainly creates uncertainty for the public because it is feared that subjective interpretations may occur for BPHTB taxpayers.

It is clear that based on this review, researchers classify the obstacles seen by
the public and industrial authorities of Jayapuira City in the implementation of the existing tax implementation system for the acquisition of land and building rights and the researchers found in the field, namely:

1) Judical factor that is mustn’t is
   a. There no clear rule used a rule there acts of law that have than can find or requirements for the for role objects to are determined most way. ___ se a little (million) the role ___ BPHTB, in it still a minimum fee limit Rp ___ 60,000,000 (einam puluh million rupiah).
   b. There are no clear rules regarding market prices that serve as a guide for the government in interpreting buildings and land in each administrative area in the government and Jayapura City.

2) Non Judicial Factors The that arise implementation the field include:
   a. There is a of public BPHTP procedures
   b. BPHTP payment verification process quite time, so very the parties out ___ ___ transfer land rights.
   c. Factors Taxpayers
      1. Obstacles taxpayers by lack of of regarding the role that in force ___ ___ ___ ___ in field of the conditions be that the himself experiencing difficulties / problems ___ ng role fees land rights that must paid for the of rights carried out where must the right to pay itself, cost of role the rights to the land and building, must paid. Due the knowledge the the property, will of for to out the collection ___.
      2. Sometimes there is bad faith on the part of BPHTB taxpayers in providing information regarding the reported sale and purchase transaction value which is lower than the actual transaction price.

4. Conclusion
   a. The Jayapuira City Government does not yet have legal certainty because it is not in accordance with the mandate of the legal regulations that apply in BPHTB debris, the determination of BPHTB due to buying and selling is based on the Purchase Value of the Objeik (NPOP) or the price of the buying and selling transaction, in Jayapuara City to determine BPHTB is based on price. The interpretation made by BAPPENDA is based on location, land structure and buildings so that there can be a subjective assessment for BPHTB taxpayers as they avoid paying tax. Taxpayers declare the transaction price in accordance with the NJOP if the market price or transaction value is greater than the Tax Object Revenue Value (NPOP). Taxpayers will also try to avoid it if the Tax Object Obtainable Value (NPOP) is greater than the Tax Object Obtainable Value (NPOP).
   b. Obstacles faced in collecting BPHTB taxes are related to legal factors and non-legal factors. Non-legal obstacles arise from implementation in the field, including BAPPENDA’s lack of transparency in interpreting land and building prices, factors related to taxpayers’ desires, obstacles related to taxpayers’ ignorance of legal norms which applies, especially in the field of taxation. There is bad faith on the part of the BPHTB taxpayer in providing information regarding the reported value of the sale and purchase transaction which is lower
than the actual transaction price.

5. Suggestion
   a. In understanding the amount of tax owed on the sale of land or buildings, BPHTB Taxpayers must comply with all the regulations that act as the embodiment of a good citizen of the country and understand the wishes of the wider community.
   b. Intuitively providing legal certainty to the public, the government will socialize the requirements of the BPHTB tax and establish NJOP rates that are in line with the selling price of the applicable tax object, which is determined at the time of the establishment of the BPHTB.

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Law Number 20 of 2000 concerning Amendments to Law Number 21 of 1997 concerning Fees for Acquisition of Land and Building Rights (BPHTB)

Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments

Government Regulation no. 24 of 1997 "Concerning Land Registration"

Government Regulation no. 37 of 1998 concerning Position Regulations for Officials Making Land Deeds

Jayapura City Regional Regulation Number 4 of 2011 concerning Land Acquisition Fees and Building Use Rights

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