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Land and Building Acquisition Duty (BPHTB) on Sale and Purchase Binding Agreements (PPJB) in Indonesia

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Abstract

Law Number 1 of 2022 regulates financial relations between the central and local governments in Indonesia. Article 49 provides that the obligation to pay Land and Building Acquisition Duty (BPHTB) arises upon the signing of a Sale and Purchase Binding Agreement (PPJB). This provision differs from previous regulations, which generally required BPHTB payment only after the completion of the sale and purchase transaction and the legal transfer of property rights. Consequently, imposing BPHTB at the PPJB stage raises concerns regarding fairness and legal certainty. This study aims to examine the legal framework governing BPHTB collection in relation to PPJB and assess its consistency with the principles of justice and legal certainty. The research employs a normative legal approach using statutory and conceptual analyses with qualitative descriptive methods. The findings show that BPHTB collection has been implemented in accordance with Law Number 1 of 2022. However, ownership rights are legally transferred only after the execution of the final sale and purchase deed, indicating that a PPJB does not constitute a completed transfer of rights. As a preliminary agreement, the PPJB merely reflects the parties' intention to complete the transaction in the future. Therefore, imposing BPHTB at this stage is inconsistent with the legal nature of the PPJB and may undermine fairness and legal certainty. The study concludes that BPHTB should become payable only upon the completion of the sale and purchase transaction and the legal transfer of property rights.

Keywords: *BPHTB; PPJB; Financial Relation; Central Government; Local Government.*

Abstrak

Undang-Undang Nomor 1 tahun 2022 mengatur hubungan keuangan antara pemerintah pusat dan pemerintah daerah di Indonesia. Pasal 49 menetapkan bahwa kewajiban membayar Bea Akuisisi Tanah dan Bangunan (BPHTB) muncul setelah penandatanganan Perjanjian Mengikat Jual dan Beli (PPJB). Ketentuan ini berbeda dari peraturan sebelumnya, yang umumnya mengharuskan pembayaran BPHTB hanya setelah transaksi jual beli dan transfer hak properti selesai. Oleh karena itu, pemberlakuan BPHTB pada tahap PPJB menimbulkan kekhawatiran terkait keadilan dan kepastian hukum. Studi ini bertujuan untuk menelaah kerangka hukum yang mengatur penagihan BPHTB terkait PPJB dan menilai konsistensinya dengan prinsip keadilan dan kepastian hukum. Penelitian ini menggunakan pendekatan hukum

normatif menggunakan analisis undang-undang dan konseptual dengan metode deskriptif kualitatif. Temuan menunjukkan bahwa pengumpulan BPHTB telah diimplementasikan sesuai dengan Undang-Undang Nomor 1 tahun 2022. Namun, hak kepemilikan secara hukum hanya dialihkan setelah pelaksanaan akta jual beli akhir, yang menunjukkan bahwa PPJB tidak merupakan transfer hak yang selesai. Sebagai perjanjian awal, PPJB hanya mencerminkan niat para pihak untuk menyelesaikan transaksi di masa depan. Oleh karena itu, memberlakukan BPHTB pada tahap ini tidak konsisten dengan sifat hukum PPJB dan dapat merusak keadilan serta kepastian hukum. Studi menyimpulkan bahwa BPHTB hanya harus dibayar setelah transaksi jual beli dan transfer hak properti selesai.

Kata Kunci: BPHTB; PPJB; Hubungan Keuangan; Pemerintah Pusat; Pemerintahan Lokal.

INTRODUCTION

Taxes are one of the main sources of revenue for the Indonesian state, which are used to finance various development and community welfare programs.[1] Taxes are very important for the survival of society and the state. Taxes are political and strategic in nature as stipulated in the 1945 Constitution, Article 33 paragraph.[2] It is strategic in character since taxes are the state's primary source of funding for government and development initiatives, and political in essence because tax collection is required by the constitution.[3] For the community itself, taxes are a concrete means of contributing to the state so that the welfare of the community and the state can be accelerated.

Since 1990, the structure and composition of state revenue has undergone fundamental changes. In the past, Indonesia depended on oil and gas revenues and foreign debt. Now, the role of these two sources of state revenue has declined, and Indonesia even imports or purchases oil and gas to meet its domestic needs. With the decline in state revenue from the oil and gas sector, Indonesia must seek other sources of state revenue, as the budget required to run the government and increase investment levels requires a budget that is. Taxes are very effective in maximizing state revenue so that state administration and

[1] Aprianita Triana, "Journal of Tax Law and Policy Penyitaan Harta Kekayaan Milik Wajib Pajak Atau Tersangka Dalam Tindak Pidana Di Bidang Perpajakan Di Indonesia," 2024, https://doi.org/10.56282/jtlp.v3i2.505.

[2] Indonesia, "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (1945); Effendi, Lutfi, and Subianta Mandala, trans. 2025. "The Dynamics of Land Ownership Rights under Indonesian Agrarian Law: Legal Certainty and the Challenges of Social Justice". Al-Battar: Jurnal Pamungkas Hukum 2 (3): 346-54. https://doi.org/10.63142/al-battar.v2i3.437.

[3] Bohari, *Pengantar Hukum Pajak*, 1st ed. (Yayasan Obor Indonesia, 2004).

implementation can run smoothly and boost economic growth in Indonesia. Indonesia's tax ratio is high because many people do not understand the importance of taxes for the Republic of Indonesia, as can be seen from the large number of people who do not pay taxes or report their taxes. In Indonesia, fair and effective state revenue collection is largely supported by taxation concepts and policies.[4]

One source of funding for provincial, regency, and municipal governments in the context of regional autonomy is local taxation. The importance of taxation in the development of a country cannot be denied. [5] Taxation in various forms of strategic development to encourage economic growth in Indonesia is being implemented intensively [6] and is an important component of state revenue. With taxation, development in all fields can be carried out. Taxes also ensure the survival of the nation and state. Unquestionably, taxes remain the state treasury's primary source of funding. It is no wonder that the government pays special attention to this sector. Various efforts and measures are being taken to ensure state revenue from taxes.[7] Taxes provide vital revenue for public services and government operations, making them an important component of a country's economy.[8] Taxes in Indonesia involve multiple intricate elements, requiring taxpayers to adhere to existing laws while also dealing with possible conflicts or problems related to taxes.

The goverment realizes that it is difficult to make the public and taxpayers want to pay taxes correctly, accurately, and willingly. The

[4] Heriantonius Silalahi and Budi Kurnia, "Fringe Benefits in Tax Law: Matching Principle and Tax Justice Perspective," 2023, https://doi.org/10.52728/ijtc.v4i4.870.

[5] Leo B Barus and Anis W Hermawan, "Asas Legalitas Dalam Tindak Pidana Pajak Daerah Dalam Rangka Pemulihan Kerugian Pada Pendapatan Daerah Di Indonesia," *Journal of Tax Law and Policy* 2, no. 1 (2023): 1–8, https://doi.org/10.56282/jtlp.v2i1.485.

[6] Maskun, "Aspek Hukum Dan HAM Pada Penggunaan Kawasan Hutan Bagi Kepentingan Pembangunan Strategis: Menyoal Pemulihan Dan Jaminan Ketidakberulangan," 2022, https://doi.org/10.20473/mi.v5i2.36576.

[7] Megah Hanny Tarigan, Gratianus Prikasetya Putra, and Arsin Lukman, "The Contradiction of Imposing BPHTB on the Creation of Unpayment of PPJB with the Principle of Convenience," no. 4 (2025); Levranda, Ruud Marino, and Lexy Fatharany Kurniawan, trans. 2025. "Kepastian Hukum Penerima Ganti Rugi Pengadaan Tanah: Studi Kasus Korupsi Tol Padang-Sicincin". Al-Battar: Jurnal Pamungkas Hukum 2 (1): 92-98. https://doi.org/10.63142/al-battar.v2i1.183.

[8] Heriantnius Silalahi, "Juridical Analysis of Tax Criminal Law Enforcement: An Overview of Legal Regulations and Its Implementation in Indonesia," 2023, https://doi.org/10.52728/ijtc.v4i3.778.

government has issued tax laws, the most recent being Regulation No. 11 of 2016 on Tax Amnesty, which is regarded as a successful measure. Because many taxpayers reported assets that were unknown to the tax office or assets located abroad, and in the first phase of the tax amnesty alone, taxpayers reported IDR 1.013 trillion. This Tax Amnesty Law can be said to be the most successful in the world, with several countries having implemented similar laws. However, this does not mean that the implementation of tax amnesty did not face resistance from within and outside the country.

Many it as nothing more than an additional burden without understanding its long- term positive impact[9]. The implementation of tax amnesty has faced real resistance from within and outside the country. The focus is on the Constitutional Court's review of the Tax Amnesty Law through a judicial review and resistance from neighboring Singapore, which is unwilling to release Indonesian citizens' funds deposited in its banks, given that the amount is so large that it could disrupt the country's economy. The wealth of Indonesian citizens in neighboring countries is estimated to reach $200 billion or IDR 2,600 trillion.[10] Imagine if all the assets of Indonesian citizens could be brought to Indonesia, then those funds could be circulated as cash flow or fresh funds in Indonesia.

The tax system in Indonesia is built on a self-assessment model, indicating that individuals and businesses must determine, pay, and declare their tax responsibilities on their own. The government encourages taxpayers to be aware of paying their taxes correctly and accurately, but not all taxpayers want to pay their tax obligations correctly and accurately. The government must always keep up with the times and online sales so as not to lose tax capacity (tax potential).

The background explanation presented above shows the importance of conducting research into the reasons behind the challenges associated with tax collection and collection from each transaction. online by first understanding the business system in online transactions, so that the tax treatment of online transactions or sales can then be examined from a legal perspective.

A binding sales agreement can be made by the parties involved before the actual transaction takes place. This agreement is usually made

[9] Edy Edwin P Ginting, "Tax Incentives For Carbon Trading In Indonesia," *Journal of Tax Law and Policy* 3, no. 3 (2024), https://doi.org/10.56282/jtlp.v3i3.581.

[10] Ahmad Buchori, "Reaksi Ketika Singapura 'Gangguan Amnesti Pajak,'" 2016.

when the seller has not yet received proof of ownership, such as a land certificate, due to various factors, including ongoing title claims, existing mortgages, or other circumstances that prevent the owner or title holder from obtaining the certificate. As a result, the rightful owner cannot proceed with the sale or sign a sales and purchase agreement related to the property in question. In human life, land is crucial. In addition to providing a home and a location supporting the things we do, land is a significant source of income. Land has been used for various activities throughout history, including agriculture and community development.[11] What does land mean, and how does it relate to an Indonesian community as a country descended from the planet's indigenous people? In other words, Indonesians have a belief system about land.[12]

A Power of Attorney granted by the seller to the buyer usually accompanies this sale and purchase agreement. To simplify future transactions, sellers can grant power of attorney to buyers or to individuals who have a close relationship with buyers. This arrangement eliminates the need for landowners to be present at the signing of the sales agreement and for it to be certified by an authorized official, as power of authority has been given to the designated individual.

Agreements governing sales and purchases, along with related legal authorities, are valid and standard legal actions, as such agreements are civil obligations governed by Article 1320 of the Book of Civil Law, which stipulates the conditions for the legality of an agreement. This is further supported by Regulation No. 12 of 2021, which revises Regulation No. 14 of 2016 concerning the implementation of residential and settlement areas. The PPJB (Initial Sale and Purchase Agreement) system consists of a series of agreements made between individuals and development stakeholders during marketing activities, as stated in the initial or binding purchase agreement prior to the official signing of the deed of sale and purchase.

In land and/or building sale and purchase transactions, this process is inherently related to the formation of an agreement or commitment. This agreement signifies a joint agreement between the parties, whereby one party is responsible for transferring property rights, while the other party is obliged to make payments in accordance with the prior agreement, in accordance with Article 1457 of the Code of Civil Law.

[11] Try Widiyono and Zubair Kasem Khan, "Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law," *Law Reform*, n.d.

[12] Oemar Moechthar, "The Epistemology of Land in an Adat Perspective," *Media Iuris* 7, no. 1 (2024): 149–68, https://doi.org/10.20473/mi.v7i1.44976.

As a result, this agreement creates certain duties and obligations for both sides involved, namely the seller and the buyer.[13] Regarding the purchase and sale of land and/or buildings, also known as costs, based on the provisions of Article 1454 of the Code of Civil Law, it is explained that with the existence of costs, the transaction cannot be canceled, so it is not accommodated if a dispute arises during the process.[14] The sale and purchase process includes several stages before involving a Notary or PPAT. This stage includes tax payments by the seller and buyer, a thorough examination on the original certificates of land title, the signing of the Deed of Sale and Purchase, as well as other necessary steps and validations. However, various challenges can hinder the AJB process. For example, one of the parties may not be available at the appointed time, or the property in question may be mortgaged or used as collateral. guarantees by financial institutions, or certificates may still be in the process of distribution, among other possible complications. As a result, Notaries/PPATs offer solutions by facilitating binding agreements between buyers and sellers, known as PPJB (Perjanjian Perikatan Jual Beli or Sale and Purchase Agreement). In practice, this arrangement can cause problems, including disputes arising from buyers, sellers, or even Notaries/PPATs, which ideally should function as preliminary agreements.[15] However, the legal processes involving binding sales contracts and powers of attorney have started to alter the purpose for which they were established. Public services are now utilizing a new model, grounded in democratic principles, which focuses on examining the balance of rights and responsibilities among individuals.[16] Land

[13] Fadhila Restyana Larasati and Mochammad Bakri, "Implementation of Supreme Court Circular Letter Number 4 of 2016," *Jurnal Konstitusi* 15, no. 4 (2018): 881–902, https://doi.org/10.31078/jk15410.

[14] Supriyadi, "KEDUDUKAN PERJANJIAN PENGIKATAN JUAL BELI HAK ATAS TANAH DALAM PERSPEKTIF HUKUM PERTANAHAN," 2016, http://dx.doi.org/10.21776/ub.arenahukum.2016.00902.3.

[15] Alfiansyah, I Nyoman Nurjaya, and Sihabudin, "URGENCY BINDING SALE AGREEMENT DEED OF LAND THAT MADE BY NOTARY," *Jurnal Mahasiswa Hukum Universitas Brawijaya*, 2015.

[16] Albert Lodewyk Sentosa Siahaan and Dominikus David Biondi Situmorang, "State Apparatus and Public Services: How Should Their Relationship Be," *Journal of Public Health*, 2025, https://doi.org/10.1093/pubmed/fdae230.

plays an essential role in people's lives, as it provides the balance needed for human development.[17]

The right to control the earth's crust in the form of land is an exclusive right possessed by every sovereign state to mark its claim over its territory.[18] In certain situations, buyers may attempt to sign a Purchase Agreement with the intention of avoiding the obligation to pay BPHTB. The buyer plans to immediately resell the acquired land to another entity, which will require the payment of BPHTB by the parties involved in the initial transaction and PPH by the seller in the subsequent transaction. As a result, the individual requests the drafting of a PPJB and a power of attorney deed to facilitate the transaction with another party when reselling the property, thereby avoiding paying income tax again as the seller and BPHTB as the buyer. Such legal maneuvers for tax avoidance purposes are often used by land brokers.

Once a new buyer has been identified, that buyer will take over the role of seller in accordance with the power of sale stipulated in the PPJB. In subsequent transactions, the new buyer will be responsible for paying BPHTB, while the seller from the initial transaction will be responsible for income tax. The funds for the Income Tax payment have been deposited with the notary. As a result, the buyer from the first transaction does not bear any tax obligations but still benefits from the sale and purchase of the land. After the second transaction is completed, the AJB will be signed, and the certificate will be transferred to the local National Land Agency.

This is certainly detrimental to the state because it can be categorized as illegal tax evasion, where someone uses a purchase agreement and power of attorney to avoid taxes by finding another buyer at a higher price. In this case, the state will suffer losses because this action is often carried out by land mafia to gain profits by hiding behind civil law in the legal actions of purchase agreements and powers of attorney.

This article is organized in the following order: it begins with a critique of the regulatory norms in the Law on Central Government and Local Government Financial Relations and the application of its

[17] Tania Wijayanti, Yudho Taruno Muryanto, and M Irnawan Darori, "Comparation of The Transfer of Land Rights to The Description Deed of Inheritance Rights," 2021.

[18] Ardian Firmansyah Arifin and Oemar Moechthar, "Penerapan Konsep Trust of Land Dalam Sistem Hukum Agraria: Suatu Perbandingan Hukum Antara Indonesia Dan Britania Raya," *Media Iuris*, 2022, https://doi.org/10.20473/mi.v5i3.34969.

regulations, which lack legal certainty, resulting in ambiguity in their application at the local government level. This study proposes that the government review this issue, considering that PPJB deeds are divided into two types, namely those with full payment and those with partial payment. This study differs from the research conducted by Megah, Gratianus, and Arsin, which shows the imposition of tax on the purchase of land and building ownership rights (BPHTB) after the signing of the PPJB deed, especially in cases where the PPJB deed is not executed.[19] In addition, this study also differs from that of Fitri, Efik, and Rini, which shows that the BPHTB provision is not a requirement for changing the name of the owner of the land and/or building to the buyer's name.[20] The most fundamental difference between this study and the two previous studies is the discussion of the regulation of BPHTB for PPJB that is fair so that the implementation of BPHTB collection on PPJB can be accepted by the local government and the community (taxpayers).

At the end of the paragraph, the author/s should end with a comment on the significance concerning identification of the issue and objective of the research. This article analyses a constitutional change that is also something that determines the implementation of constitutional life of a country, even John Burgens argues that constitutional change is something that is very strategic in the constitutional state and determine the constitutional development of a nation , since changes to the constitution, especially article that govern it, will be able to determine the political actors can make changes to the existing legal norms in the constitution or do redesign of norms that are fundamental. Written constitutions are not only likely to give rise to greater problems of interpretation than unwritten ones, but they are also

[19] Tarigan, Putra, and Lukman, "The Contradiction of Imposing BPHTB on the Creation of Unpayment of PPJB with the Principle of Convenience."

[20] Fitri Wahyuni, Efik Yusdiansyah, and Rini Irianti, "The Establishment of Tax on Land and Building Rights (BPHTB) Payment Arrangement in Notarial Sale and Purchase Agreement Deed," 2024, https://doi.org/10.10520/EJC159245.

harder to change. Furthermore, regarding the use of citations, the following examples are for books,[21] journals,[22] and websites.[23]

RESEARCH METHODS

This study employs a normative legal research method to examine the legal framework governing agrarian reform and its implications for the protection of local communities and the sustainability of natural resources. The research adopts a statutory approach (statute approach) by examining relevant laws and regulations, as well as a conceptual approach to provide a theoretical understanding of agrarian reform, community rights, and environmental sustainability.[24] These approaches are used to identify, interpret, and evaluate the consistency of the applicable legal framework with the principles of social justice, legal protection, and sustainable natural resource management.[25]

The research draws on primary and secondary legal materials. Primary legal materials consist of authoritative legal instruments relevant to the research objectives, including the 1945 Constitution of the Republic of Indonesia, statutes, presidential regulations, government regulations, ministerial regulations, and relevant regional regulations concerning agrarian reform, land governance, the rights of local communities, and environmental protection. Secondary legal materials include scholarly books, peer-reviewed journal articles, research reports, academic publications, and expert opinions that explain and critically analyze the relevant legal provisions and concepts. These materials are selected based on their relevance, authority, and contribution to addressing the research questions. Data collection is conducted through

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[21] Novendri M. Nggilu, *Hukum Dan Teori Konstitusi (Perubahan Konstitusi Yang Partisipatif Dan Populis)* (Yogyakarta: UII Press, 2014).

[22] Imtiyaz Wizni Aufa, Anugrah Muhtarom Pratama, and Umi Khaerah Pati, "Cash Waqf Linked Sukuk Through Securities Crowdfunding in Indonesia," *Jambura Law Review* 5, no. 1 (January 29, 2023): 98–117, https://doi.org/10.33756/jlr.v5i1.15225.

[23] Rismanto Kaku, "DPD RI Gandeng FH Sukseskan FGD Tentang Ranperda Pajak Daerah," *Fakultas Hukum* (blog), February 2, 2023, https://fh.ung.ac.id/dpd-ri-gandeng-fh-sukseskan-fgd-tentang-ranperda-pajak-daerah/.

[24] Meike Binsneyder and Abraham Ferry Rosando, "Akibat Hukum Pengalihan Hak Tanggungan Tanpa Sepengetahuan Kreditur," *Jurnal Hukum Bisnis Bonum Commune* 3, no. 1 (2020).

[25] Abdul Kadir Jaelani, "A Key Role in Sustainable Development Goals," *Indonesia Carbon Tax Policy*, 2020, https://doi.org/10.1063/5.0202042.

[25] Meike Binsneyder and Abraham Ferry Rosando, "Akibat Hukum Pengalihan Hak Tanggungan Tanpa Sepengetahuan Kreditur," *Jurnal Hukum Bisnis Bonum Commune* 3, no. 1 (2020).

documentary research and a systematic literature review, involving the identification, classification, and examination of relevant legal instruments and scholarly sources obtained from official legal databases, academic journals, and other credible publications.

The collected legal materials are analyzed using qualitative legal analysis, incorporating descriptive, interpretative, and prescriptive techniques. The analysis begins with the classification of legal materials according to the research themes, followed by the interpretation of relevant legal provisions and the examination of their relationships, consistency, and implications for agrarian reform implementation. The findings are then evaluated through doctrinal legal reasoning to assess the extent to which the existing legal framework safeguards the rights and interests of local communities while promoting the sustainable management of natural resources. Based on this analysis, the study formulates legal arguments and normative recommendations to identify regulatory gaps, potential inconsistencies, and opportunities to strengthen the integration of community protection and environmental sustainability into agrarian reform policies.

RESULTS AND DISCUSSION

Sale and Purchase Agreement (PPJB)

A binding Sale and Purchase Agreement, often referred to as PPJB, relates to a binding agreement for property transactions, including land and buildings. It is important to emphasize that PPJB is not explicitly regulated by specific laws or regulations. However, there are several regulations that use the term PPJB. PPJB is created and implemented before the transfer through settlement or inability to pay by the seller and buyer.

If a paid PPJB is used specifically for the buyer's benefit, it does not require the seller's signature (approval) to create a new deed of sale. For unpaid PPJBs, it is not permissible to grant power of attorney to the buyer.

A Binding Purchase and Sale Agreement, often referred to as PPJB, relates to a binding agreement regarding the sale and purchase of real estate property, which includes land and buildings. It is important to note that PPJB is not directly regulated by specific laws or regulations.

Cost of Acquisition of Rights to Land and Buildings (BPHTB)

According to Article 1 paragraph (41) of Regulation No. 28 of 2009 on Local Taxes and Regional Levies, BPHTB refers to the tax imposed on the acquisition of rights to the land and/or the building. In addition, the Organization for Economic Cooperation and Development

(OECD) reports that in 2022, Indonesia, similar to other countries in Asia, faces increasing inequality in social equity.[26] The term "purchase of such rights" refers to any legal action or event that results in an individual or entity acquiring rights to the land and/or the buildings. In addition, rights to land and/or buildings include ownership rights, which also include management rights, as well as any structures located on the land, as stipulated in the applicable land and building regulations. Previously classified as a central tax, BPHTB has been reclassified as a local tax following the enactment of Law No. 28/2009. This transition is a significant source of local revenue aimed at encouraging and enhancing economic development in the region.

A Sale and Purchase Agreement[27] is an agreement[28] made in the form of an authentic deed[29] drawn up before a Notary[30] called a Notarial Deed.[31] One method of transferring land rights is through a sale and purchase process. The main principles governing land sale and purchase transactions are transparency and timely payment. Transparency means that transactions are conducted openly, with clearly identified properties and owners, accompanied by complete documents and proof of ownership. Timely payment means that full payment is made at the time of the transaction. Taxes have been paid, the sale and purchase document has been signed, and the certificate is being processed further. However, various factors can hinder the application of the principles of transparency and timely payment in practice. The inability to meet these requirements does not preclude the possibility of executing the transaction; alternative instruments, such as a sale and purchase document (PPJB), can serve as the binding agreement and proof of sale while awaiting the completion of other necessary procedures. The requirements of the deed of sale may be unmet for reasons such as incomplete payment, ongoing certificate distribution, inability to finance the land and buildings, or other legal circumstances. In the execution of a land sale and purchase transaction, the interaction between the seller

[26] Prischa Listiningrum, "The Space Between Us: Questioning Multi-Spatial Justice in the Upcoming Indonesia's Capital," *Journal of Human Rights, Culture and Legal System* 3, no. 3 (2023): 706–30, https://doi.org/10.53955/jhcls.v3i3.169.

[27] Herlien Budiono, "Pengikatan Jual Beli Dan Kuasa Mutlak," 2004.

[28] Herlien Budiono, *Kumpulan Tulisan Hukum Perdata Di Bidang Kenotariatan* (Citra Aditya Bakti, 2009).

[29] Indonesia, "Kitab Undang-Undang Hukum Perdata" (1847).

[30] Indonesia, "Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris" (2014).

[31] Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

and the buyer involves more than just the transfer of funds in accordance with the agreed property price. This complexity arises from the need to consider additional financial components, such as land sale and purchase taxes. The tax payable by the seller is called Personal Income Tax (PPh), while the tax payable by the buyer is called Tax on Income earned from the Sale of the land and the building (BPHTB).

Income obtained from the transfer of ownership rights to land and/or buildings, as well as from related sale and purchase agreements and subsequent modifications, is subject to Income Tax at the time of the transaction. This tax is considered final, regardless of whether the activity is part of business operations or is carried out privately. In addition to the final income tax paid by the seller, the transfer of land and building ownership rights is also subject to BPHTB.

The Tax on Income from Land and Land Ownership Rights (BPHTB) is a tax imposed when someone purchases land and land ownership rights. This purchase is viewed as a legal transaction or occurrence where a person or organization obtains ownership rights to real estate. Initially, BPHTB was managed by the central government. However, with the enforcement of Law No. 28 of 2009 regarding Local Taxes and Levies (PDRD), the responsibility for the collection of BPHTB was transferred to district and city governments starting January 1, 2011.

BPHTB, being a possible source of local tax income, definitely makes the government reluctant to forfeit any tax revenue from this area.[32] Both sellers and buyers are required to ensure payment of this tax. The applicable rates have been determined and calculated in accordance with applicable regulations.

As mentioned earlier, a binding agreement of sale and purchase (PPJB) can be created together with the power of attorney to sell or separately. Independent sale and purchase rights allow buyers to conduct land and/or building sale and purchase transactions with other parties, while the first party does not inform the other party that the sale and purchase rights are included in a previously binding sale and purchasing agreement This situation gives an impression that the first party only allows the second party to sell to other entities. In addition, the first sales and purchases of land and/or buildings do not trigger the application of

[32] Albert Lodewyk Sentosa Siahaan, "Legal Certainty of Gustav Radbruch Based on Tax Imposition on Land Acquisition and Building Rights on Sale and Purchase of Land and Building in Medan City," 2024, https://doi.org/10.61707/gvzncp60.

Tax on Income from the Sale of Land and/or Buildings (BPHTB) or Income tax (PPh).

The issuance of power of attorney is often considered detrimental to the grantor, as there are cases where the grantee can use this authority for their own interests. The main purpose of granting power of attorney to the attorney-in-fact is to facilitate the sale of property to a third party without requiring the consent of the principal, as the principal's name is listed on the land certificate. In addition, this arrangement aims to reduce the tax liability that would arise if the sale of land were carried out in accordance with legal procedures. Thus, it appears as if the transaction is a one-time transaction.

The aforementioned action, namely signing a sales and purchases agreement (PPJB) together with a power of attorney, is a form of legal smuggling, which can be classified as illegal tax evasion. In this context, legal smuggling refers specifically to tax evasion. The buyer uses a strategy to avoid paying the taxes that should be paid.

Transactions involving the transfer of land rights, which include the signing of a power of attorney for sale and a Sales and Purchase Agreement (PPJB), pose a significant risk to state tax revenue. Issuing a power of attorney to sell without signing a sales agreement may inadvertently facilitate the avoidance of income tax on income from income (PPh) and income tax on income from income (PPh). This situation occurs even when the legal representative does not disclose the purpose of the power of attorney during the notary process, thereby avoiding the obligation to pay PPh.

In a sale and purchase deed that includes a proxy for sale, tax avoidance related to the collection of Income Tax and BPHTB may occur if the buyer requests that the proxy for sale be signed separately from the sales deed of sale before a public notary. Once the power of attorney to vend is established, the buyer can do with the trade and purchase of land and/ or structures with another party, without the obligation to notify the posterior buyer or the original dealer that the power of attorney to vend is an important element of the list trade and purchase agreement. As a result, it appears that the Seller only permits the Buyer to sell the Seller's lands and/or buildings to other parties. This arrangement allows the Buyer to avoid paying Income Tax and BPHTB, as these tax obligations are imposed on both the original seller and subsequent buyers.

Tax avoidance in the form of tax evasion occurs due to low tax awareness among relevant parties. Contributing factors include: taxes being considered a burden and a lack of trust in tax authorities. In

addition, the cost of tax compliance is considered high by some people[33], as evidenced by the amount of tax that must be borne by taxpayers.[34] Tax subjects are the main element of this tax behavior. BPHTB taxpayers can be individuals or legal entities (companies). Companies can be categorized as legal subjects in line with one of the legal entity theories known as the organ theory taught by Otto van Gierke and L.C. Polano. The organ theory views a legal entity as something real (reliteit) rather than a mere fiction (fictie).[35]

Tax avoidance behavior (illegal tax avoidance) in the view of positive law (tax law) covers areas that violate legal norms. Such actions can reduce state revenue from the taxation sector and reduce existing tax potential. Tax rules are made with the aim of collecting as much tax as possible, while illegal tax avoidance is categorized as an action that contradicts the tax rules themselves. It can be interpreted that tax avoidance.

Taxation is contrary to the objectives of tax law. Fairness ensures that taxpayers are treated fairly, while justice requires that the tax burden be distributed based on ability to pay.[36] The paper on the setting of time limits for criminal enforcement in Indonesia contradicts the concepts of equality before the law, legal certainty, and human rights, indicating that the setting of time limits for crimes related to duties needs to be reconstructed in the forthcoming amendments to the Criminal Procedure Code.[37] In terms of tax certainty, Adam Smith emphasized that certainty is one of the essential principles that must exist in tax regulations in

[33] Agus Santoso Suryadi, "Asas Kepastian Hukum Dan Asas Keadilan Dalam Pemungutan Pajak-Pajak Atas Pengalihan Hak-Hak Atas Tanah Dan Atau Bangunan," 2003.

[34] Anak Agung Gede Angga Kusuma Putra, "Pembayaran Pajak Penghasilan Terkait Keotentikan Perjanjian Pengikatan Jual Beli," 2019, https://doi.org/10.24843/AC.2019.v04.i03.p09.

[35] Henry P Dianto Sinaga, "Konstruksi Pajak Penghasilan Atas Merger Perseroan Terbatas Di Indonesia," *Journal of Tax Law and Policy* 2, no. 3 (2023), https://doi.org/10.56282/jtlp.v2i3.514.

[36] Achmad Baheramsyah, "ASSESSING THE ROLE OF LEGAL PRINCIPLES IN TAX AUDIT SAMPLING METHODS: A DOCTRINAL STUDY ON FAIRNESS AND EQUITY IN INDONESIA," *Journal of Tax Law and Policy*, 2024, https://doi.org/10.56282/jtlp.v3i3.565.

[37] Parulian Situmorang, "Legal Reformulation on Expired Provisions of Prosecution of Tax Crimes in Indonesia," *Journal of Tax Law and Policy* 2, no. 3 (2023), https://doi.org/10.56282/jtlp.v2i3.519.

addition to the four[38] principles of taxation, videlicet equivalency, certainty, ease of payment, and effectiveness of profit. In this case, there are at least three characteristics of social cooperation, namely being guided by publicly recognized rules and procedures, covering fair cooperation conditions (reasonably acceptable to participants and involving reciprocity or mutuality), and monitoring the rationality of the benefits or advantages of each participant.[39] If one of the parties (the initial seller or subsequent buyer) is aware of tax avoidance efforts by the first buyer and files an objection, both parties have the right to file a request for cancellation of the deed with the court.[40]

The PPJB Deed and the separate Power of Attorney Deed may be canceled if one of the parties files a request for cancellation with the court. Since the trade and Purchase Agreement Deed (PPJB) can still be canceled, both the PPJB Deed and the Power of Attorney Deed are considered valid and enforceable between the parties until a request for cancellation is filed by one of the parties.

If it proven that the notary has committed a violation by collaborating with one of the parties to create a PPJB and power of attorney deed with the aim of avoiding one of the parties from paying taxes. Conspiracy was carried out between the parties in the deed of trade and purchase and the notary so that it can be caught on that this action constitutes illegal duty avoidance in which the notary is involved, indeed though it's frequently assumed that the notary is ignorant of the legal situation and the factual events because only the parties know the factual situation. From a tax policy perspective, the practice of illegal tax evasion can lead to injustice and a decline in the efficiency of the tax system, as well as, of course, eliminating potential tax revenue for the state. The principle of legality serves as a basis and/or approach for creating authority in government management concerning legal accountability for wielding that authority, reflecting one of the tenets of

[38] Dianto Sinaga, "Kepastian Hukum Di Bidang Perpajakan Yang Berbasis Cita Hukum Pancasila," 2023, https://doi.org/10.56282/jtlp.v2i2.499.

[39] Arief P Hakim Lubis, "Novum and Unrevealed Data in Tax Disputes in Indonesia: A Legal Certainty Perspective," *Journal of Tax Law and Policy* 1, no. 2 (2022).

[40] Henry D P Sinaga and Yuli T Hidayat, "Legal Deconstruction of Tax Audit on the Taxpayer's Refund Application for Tax Overpayment in Indonesia," *Journal of Tax Law and Policy* 1, no. 2 (2022).

the rule of law that authority must be paired with responsibility.[41] To recapture the fiscal losses incurred by the state as a result of felonious conditioning related to taxation.[42]

From the classification of special criminal law into internal and external categories, criminal tax law falls under the external category.[43] These vittles can give guarantees of felonious liability in the field of taxation to anyone who has actually caused an effect that's banned in felonious duty offenses, and at the same time give guarantees that a person cannot be criminally fulfilled for the consequences of unlawful acts in the field of taxation.[44] The legal ideals of Pancasila are an applicable means of developing a conception of legal certainty in the field of taxation in Indonesia, as a frame that seeks to make a society through a legal approach, whereby the development of society must be regulated by law.

That reflects the values prevailing in society, with its implementation remaining within the boundaries determined by law.[45] The culture of duty enforcement in Indonesia is too dependent on legal positivism, which has the implicit to be abused by reckless parties given the limitations of the law in regulating the geste of taxpayers and law enforcement officers. Second, the culture of tax enforcement in Indonesia should be oriented towards a responsive culture, which includes behavior that is not only routine based on logical deduction and the limitations of written rules.[46]

The comprehensive land management process, which includes the registration and maintenance of land-related data, is not fully regulated by the National Land Agency. This process is closely related to several

[41] Syehabudin Zm, "Criminalisation of Abuse of Authority in Indonesia: A Lesson from Tax Beschikking in the Field of Taxation," *Journal of Tax Law and Policy* 3, no. 2 (2024): 75, https://doi.org/10.56282/jtlp.v3i2.505.

[42] Parluhutan Rajagukguk and Hariomurti Tri Kuntonegoro, "Tax Bailiff Roles Post Assets Confiscation on Suspect of Tax Crime in Indonesia," *Journal of Tax Law and Policy* 1, no. 2 (2022).

[43] Wahyu Widodo and Rizki Piet Darmawan, "Optimal Tax Investigation Based on the Recovery of State Revenue Losses," *Journal of Tax Law and Policy* 3, no. 3 (2024), https://doi.org/10.56282/jtlp.v3i3.556.

[44] Silalahi and Kurnia, "Fringe Benefits in Tax Law: Matching Principle and Tax Justice Perspective."

[45] Sinaga, "Konstruksi Pajak Penghasilan Atas Merger Perseroan Terbatas Di Indonesia."

[46] Didit Santoso, "On Legal Culture of Tax Enforcer in Indonesia," 2022, https://doi.org/10.56282/jtlp.v1i3.476.

other entities, including the Ministry of Finance regarding income tax issues, as well as local governments regarding BPHTB and PPAT/Notaries for the preparation of deeds required for the issuance of certificates. Still, the Ministry of Finance, particularly the Directorate General of levies, doesn't have the authority to directly manage the process of preparing deeds related to land rights transfers. Supervisory responsibility lies with the Notary Supervisory Board and the National Land Agency. If someone is aware of a violation by a notary aimed at avoiding tax obligations, they have the right to report it to the Notary Supervisory Board.

Improvement of Laws and Regulations

The presence of rules and guidelines concerning BPHTB in buying and dealing contracts, as outlined in Law Number 1 of 2022 regarding financial connections between the Central and Original Governments, obligates original governments to produce original regulations about BPHTB in PPJB, irrespective of their individual choices. The explanation provided is not specific as to whether the sales agreement must be completed in whole or in part.

Thus, if we look at and interpret the regulation, BPHTB is paid in the legal action of the trade and Purchase Agreement, whether paid in full or in part, also this easily contradicts the spirit of the meaning of "purchase" in BPHTB. Improvements in technology and the rapidly evolving and advanced internet have greatly influenced everyday human behaviors.[47]

Final Income Tax, which is imposed on sellers based on Government Regulation No. 34 of 2016, does not mean that BPHTB is also imposed on buyers. The meaning of income and acquisition is certainly different. Income has been obtained by the seller, albeit gradually, so that income tax is calculated based on the amount of income that has been obtained. Tax changes in Indonesia started in 1983 with the implementation of the self-assessment method for figuring out income tax.[48]

To establish a fair, efficient, and responsive taxation system in line with global dynamics, two strategic steps can be taken: a) Adjusting

[47] Dhaniswara K. Harjono, "Legal Development of the Validity of Electronic Mortgage Certificate in Indonesian Land Registration System," 2022, https://doi.org/10.20961/yustisia.v11i2.61111.

[48] David Tan and Lu Sudirman, "Final Income Tax: A Classic Contemporary Concept to Increase Voluntary Tax Compliance among Legal Professions in Indonesia," 2020, https://doi.org/10.15294/jils.v5i1.37308.

digital taxation policies to the DTS model that has been implemented in regions such as the European Union and India, and b) Strengthening the corporate income tax (CIT) collection mechanism for foreign OTT service providers that earn significant income from the Indonesian market.[49] Acquisitions are different, because there are no partial acquisitions in financial accounting. Acquisitions are only accepted by buyers of land and buildings if the payment obligations have been fulfilled, so that payments are made in full through PPJB or AJB, so that factually and legally, the rights to transfer have been transferred from the seller to the buyer. With a strong legal basis, the government and law enforcement agencies can act more decisively and effectively in handling money laundering cases. In addition, a clear legal basis also serves as a guide for the banking sector and other financial institutions in implementing preventive measures.[50] The welfare of society will be determined by the justice provided by the state in realizing a decent life.[51]

CONCLUSION

This study concludes that binding sale and purchase agreements (Perjanjian Pengikatan Jual Beli or PPJB) and powers of attorney executed before a notary may be used as legal instruments to defer or circumvent tax obligations arising from land and building transactions, particularly Income Tax (PPh) and the Land and Building Acquisition Duty (Bea Perolehan Hak atas Tanah dan Bangunan or BPHTB). The principal finding is that the use of these instruments does not automatically constitute a tax violation; rather, the legal consequences depend on the substance of the transaction, the parties' intentions, and compliance with the applicable tax regulations. Where such instruments are deliberately structured to conceal the actual transfer of economic benefits or to unlawfully evade tax obligations, they may undermine the effectiveness of tax enforcement and reduce state revenue. Accordingly, the legal assessment must distinguish legitimate contractual arrangements from transactions designed to circumvent mandatory tax obligations.

[49] Sugeng, Widya Romsindah Aidy, and Andre Cardenas, "Digital Taxation on Over-The-Top Services: A Comparative Study of Regulations in Indonesia and the ASEAN Region," 2025, https://doi.org/10.20473/mi.v8i2.71267.

[50] Albert Lodewyk Sentosa Siahaan, "55. Q2 Reverse Burden of Proof on the Assets of State Institution Administrators to Prevent Money Laundering," 2025, https://doi.org/10.64753/jcasc.v10i2.2358.

[51] Setiyo Utomo, *Percepatan Reforma Agraria Untuk Mencapai Keadilan*, n.d.

The study further identifies legal uncertainty concerning the timing of BPHTB liability in transactions involving PPJBs and subsequent deeds of sale and purchase (Akta Jual Beli or AJB). This uncertainty may lead to inconsistent interpretations and enforcement practices among taxpayers, notaries, Land Deed Officials (Pejabat Pembuat Akta Tanah or PPATs), tax authorities, and law enforcement institutions. The central finding is that the legal treatment of PPJBs should be determined by reference to the applicable statutory provisions governing the taxable event, the legal status of the transaction, and the distinction between contractual commitments and the transfer of land rights. Consequently, the imposition of BPHTB should not be based solely on the execution or completion of a PPJB or on full payment of the purchase price without a clear statutory basis. Instead, the relevant taxable event must be established in accordance with the applicable legislation to ensure legal certainty, consistency, and fairness in tax administration.

To address these issues, this study recommends that the Supreme Court, the Government, the Ministry of Finance, and relevant regional governments strengthen regulatory harmonization and provide authoritative interpretative guidance on the tax implications of PPJBs and powers of attorney in land transactions. Such measures should clarify the circumstances in which tax obligations arise, establish consistent criteria for distinguishing lawful contractual arrangements from abusive tax practices, and define the professional responsibilities of notaries and PPATs in supporting tax compliance. Furthermore, legislative and administrative reforms should ensure that BPHTB is imposed at the legally prescribed taxable event, while mechanisms are introduced to prevent the artificial use of PPJBs and powers of attorney to circumvent tax obligations. These reforms would help protect state revenue, enhance legal certainty for taxpayers and legal professionals, and promote a more transparent, accountable, and equitable system of land transaction taxation.

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