

Optimization of Income Tax Revenue in Land and Building Rights Transfer Transactions

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Abstract

Income tax has the potential for revenue from transactions involving the transfer of land and building rights. However, there are still challenges to its optimal implementation. The purpose of this research is, *first*, to understand the mechanism of income tax imposition on transactions involving the transfer of land and buildings and, *secondly* the challenges in optimizing income tax on transactions involving the transfer of land and buildings. This research employs the normative legal research method, which incorporates a legislative and conceptual perspective. The legal system theory examines the factors that challenge the optimization of income tax on the transfer of land and building rights. The research results show, *first*, the mechanism of PPh on PHTB is imposed on the amount of income received or obtained by the party transferring or selling the rights to land and/or buildings. The payment of PPh occurs prior to the signing of the land transfer deed. *Secondly*, the optimization challenge often arises from taxpayers collaborating to evade the obligation to pay income tax on the transfer of land and buildings. Three factors contribute to non-compliance: the evolving legal framework and intricate mechanisms, the existence of land law enforcers within the legal structure who aid taxpayers in evading income tax payments, and the prevailing legal culture that lacks awareness of the procedures and significance of paying income tax on land and building transfers. Therefore, the tax sector needs to implement a series of tax policy strategies to meet national revenue targets.

Keywords: Build; Income; Land; Tax; Transfer;



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Introduction

To support national development, Indonesia has several sources of income, one of which is taxes. According to Article 1 paragraph (1) of the KUP, Tax is a mandatory contribution to the state owed by individuals or entities that is coercive based on law, with no direct compensation and is used for state needs for the greatest prosperity of the people. Regulations regarding taxes are contained in the UUD 1945, article 23 letter (a). Taxes are a source of state

income which has a major impact in providing a budget for state expenditures in an effort to increase national development from all aspects (Adrian Sutedi, 2014). Tax is also a collection contribution that can be imposed by the government based on the provisions of tax laws and regulations as well as an embodiment of the participation of the community or taxpayers to directly and jointly carry out tax obligations necessary for state financing and national development (Putri & Taun, 2023).

The goal of national development is to create a just and prosperous society through increasing the standard of living, intelligence, and welfare of all people. In the implementation of national development, regional development cannot be separated. So, to facilitate national development, a budget from the state government is needed which is obtained from regional tax collections. For this reason, the government continues to strive to explore every potential that can be used to increase and optimize regional revenues.

In general, Suandy expressed his opinion regarding the two functions of tax, namely, *first*, taxes function as financial (budgetary). In the financial function, taxes function to put as much money into the state treasury so that the state's objectives in financing state expenditures can be met. With the increase in money entering the state treasury, state tax revenues will also increase. *Second*, taxes have a regulatory function. In this function, taxes act as a tool to regulate society in the economic, social and political fields (Naharto & Tjondro, 2014).

In Indonesia, there are 3 (three) types of tax collection systems, namely, the Official Assessment System, and the Withholding Assessment System, and the Self-Assessment System. The Official Assessment System is a tax collection system that imposes the authority to determine the amount of tax owed on the tax authorities (tax officers) as tax collectors. Taxpayers in this case are passive and wait for the issuance of a Tax Assessment Letter determined by the tax collecting institution (Akbar et al., 2015). *First*, The Official Assessment System is implemented for the payment of Land and Building Tax (PBB) and other types of regional taxes. This system is designed for the public, specifically for taxpayers who may not be equipped to calculate and determine their own tax obligations (Hidayat et al., 2022).

Second, Withholding System, this tax collection system, a third party has the authority to determine how much tax must be paid by taxpayers. The amount of tax is calculated by a third party who is not a taxpayer, tax officer or tax authority. The implementation of this withholding system is a deduction from employee income which is carried out by the treasurer of the relevant agency or company. So, employees do not need to go to the local KPP to pay the tax. The types of taxes that usually use a withholding system in Indonesia are PPh Article 21, PPh Article 22, PPh Article 23, Final PPh Article 4 paragraph 92), and VAT. Withholding receipts are usually used as proof of tax payment using

this system. In certain circumstances, you can also use a Tax Payment Letter (SSP). proof of the deduction will be attached with the Taxpayer's Annual Income Tax Return (SPT) or Periodic VAT SPT (Pusung et al., 2024).

Third, The Self-Assessment System is a tax collection system that imposes the burden of determining the amount of tax owed that needs to be paid by the taxpayer concerned independently. The Self-Assessment System is a tax collection system that places the responsibility of determining the amount of tax owed on the taxpayer (Pramudya et al., 2022). In this case, the activities of calculating, calculating, paying, and reporting taxes are carried out by taxpayers who play an active role in coming to the Tax Service Office (KPP) or through the online administration system that has been prepared by the government. The role of tax collecting institutions is only to supervise through a series of supervisory and law enforcement actions (tax inspections and investigations). The Self-Assessment system is usually determined on types of central taxes, such as Income Tax (PPh) and Value Added Tax (PPn) (Mesiono & Lubis, 2021).

Final Income Tax adheres to a self-assessment system which is reflected in Article 12 paragraph 1 of Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions on Taxation which has been amended by Law of the Republic of Indonesia Number 16 of 2009 where every Taxpayer is entrusted with calculating and paying the amount of tax which is owed correctly and in accordance with the provisions of tax laws and regulations and does not depend on the existence of a Tax Assessment Letter.

The transfer of rights to and/or buildings is one of the objects subject to final Income Tax. In general, PPh on PHTB is imposed on the amount of income received or earned by the party transferring or selling rights to land and/or buildings (Purnayasa et al., 2021). The final PPh provisions for PHTB are regulated in Article 4 paragraph (2) letter d of Law Number 36 of 2008 concerning Income Tax as most recently amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (HPP). However, the rules relating to tariffs, the tax base (DPP), and the party making the final PPh deductions are contained in the implementing regulations, namely Government Regulation Number 34 of 2016 and Minister of Finance Regulation Number 261 of 2016. Income from PHTB is income received or obtained by the party transferring rights to land and/or buildings through sale, exchange, relinquishment of rights, assignment of rights, auction, gift, inheritance, or other means agreed upon by the parties.

This research is a development of previous research, namely the research (Sulaeman, 2021) which indicates that there are obstacles in tax collection in general, specifically related to tax planning within companies for tax evasion. The object of this research concerns taxes within a company that are not specifically related to income tax. Next, the research from (Lora & Mathon,

2021) with a research focus on the consequences of underpayment of income tax during land and building transfer transactions to Notaries/PPAT. Another study from (BT & Hidayati, 2024) with a research focus on the effectiveness of reducing the final income tax rate on the transfer of land and building rights on tax revenue at KPP Pratama Cikarang Utara.

The next research is the research from (Purnayasa et al., 2021) expresses that the regulation regarding the imposition of income tax on land and buildings is carried out in accordance with the provisions in Article 4 paragraph (2) letter (d) of the Income Tax Law, where the imposition of the tax is absolute in nature. Based on this, the imposition of income tax, including its nature, amount, and payment procedures, as well as its withholding and collection, is regulated by Government Regulation No. 71 of 2008. The mechanism for tax imposition has been regulated in Government Regulation No. 34 of 2016, specifically in Article 2 paragraph (1). The difference with this research lies in the discussion of challenges; this research does not cover that discussion. Then the research from (Larasati, 2023) which shows that the calculation and reporting of final income tax under Article 4 paragraph (2) on the transfer of land/building rights and the impact or consequences of errors in the application of final income tax at PT. Salva Inti Property have complied with the applicable regulations because any mistakes will result in sanctions and administrative fines.

Several studies have investigated the income tax mechanism on PHTB. However, there are still gaps. The current literature lacks research, creating a significant void that requires filling. This gap arises from the need for more research on optimizing income tax on land and building transfer (PHTB). Despite the existence of regulations regarding the imposition of income tax, the challenge of taxpayer non-compliance in paying income tax on PHTB has hindered optimization, and there is currently a dearth of research addressing this pressing issue. Therefore, the main focus of this research is not only to fill that gap but also to potentially develop income tax regulations on PHTB and influence public awareness of compliance in tax payment during the process of land and building rights transfer.

Methodology

This research uses normative legal research. This research method uses legislative techniques related to the review of all relevant legal guidelines and policies (Prastyanti & Sharma, 2024). This approach used to understand the regulatory mechanisms and tax rates for income tax collection on land and building transfer transactions. In addition, this research uses a conceptual approach. This research also uses legal system theory as a tool to discuss and examine issues related to the factors underlying the obstacles to taxpayer noncompliance in paying income tax on land and building transfer transactions are discussed. The types of data used are either primary or secondary. The process of gathering legal resources includes looking through

books, documents, archives, and the findings of validated scientific study (Sutrisni et al., 2024).

Results and Discussion

Mechanism for Imposing Income Tax on Land Transfer Transactions

The transfer of land ownership rights itself is carried out by individuals or bodies that are not included in the tax subject. The tax is received or obtained by the individual himself and the body in accordance with what has been regulated in the provisions of Law No. 36 of 2008. Payment of taxes in Indonesia is carried out in 3 ways, namely the first is by means of the official assessment system, this system is the provision of flexibility to the government in determining the amount of tax that must be paid by the tax subject itself. Taxes included in this payment system are passive taxes, tax debts arising from late payments and the issuance of a letter of determination of the tax. The self-assessment system is a payment system that gives authority to the tax subject himself to calculate the tax that must be paid. This system is running if the tax subject routinely calculates the tax that must be paid, reports and pays tax according to the amount that should be paid and the government no longer needs to provide a letter of tax determination unless certain actions occur, such as late reporting and payment of tax made by the tax subject himself.

Tax is a source of state income that has a major impact in providing a budget for state expenditures to improve national development from all aspects. On this basis, it is expected that Indonesian citizens will be obedient in paying taxes in any form. Meanwhile, income tax is a tax that is collected directly by the central government. This direct levy is the full responsibility of the taxpayer concerned. In this context, payment of income tax may not be delegated to other parties or included directly in the selling price and production price (Purnayasa et al., 2021). The subjects of income tax themselves are those who have income and have the potential to be subject to income tax. If the taxpayer has fulfilled the payment of the tax, then the taxpayer can be said to be a taxpayer. Taxpayers are tax subjects, namely people or entities who have obediently carried out their obligations to pay taxes according to the amount and time determined in accordance with applicable legal provisions and procedures. Those who can be categorized as tax subjects are individuals, inheritance, bodies and permanent business entities (Husodo et al., 2017). Individuals are those who reside or reside in the territory of Indonesia or outside the territory of Indonesia, regardless of age, social status, citizenship, and nationality.

To prepare for the management of PHTB, the regional government forms an arrangement of the organizational structure that will be given authority over the management of tax transfers, and the formation of the management of the organization in accordance with the references and policies of the central government. An agency is a group of people or capital that either does business or does not do business, for example limited liability companies, limited

partnerships, cooperatives, foundations, and all other forms of bodies, whether they are legal entities or not. A form of business that can be said to be permanent is a form of business driven by individuals who are Indonesian citizens or individuals who have resided in Indonesia for approximately 12 months or an agency that is not established in Indonesia to establish and run its business in Indonesia.

The mechanism for the transfer of rights to land and buildings itself is a process of selling, releasing, or handing over rights or other means that have been agreed upon together with the government with the aim of helping to support the public interest. To prepare for the management of PHTB, the local government establishes the arrangement of the organizational structure that will be given authority over the management of tax transfers, and the formation of the management of the organization in accordance with the reference and policy of the central government. If the tax payment has been made by the tax subject, the treasurer and the respondent are obliged to deposit the income tax payment to the bank or post office before making the payment to the individual or entity entitled to the payment.

After the payment process, the treasurer or official is required to report the transfer of land rights to the Directorate General of Taxes. The imposition of the amount of tax that must be paid in the transfer process, the transfer procedure and signing have been regulated in PP No. 71 of 2008 which regulates Income Tax. PP No. 71 of 2008 in Article 2 states that income tax payments must be made before the process of signing the deed for the transfer of the land. The acquisition of land rights itself is a legal event that results in the acquisition of rights from the land itself, either by individuals or bodies. The rights to land and buildings themselves are the rights to ownership, the rights to management, either land or buildings on it, as stated in Law No. 5 of 1960 (hereinafter referred to as UUPA). And the regulations regarding the payment of taxes on these rights are contained in the Income Tax Law. With the development of the era, the tax payment system other than that contained in the Law mentioned above has undergone many updates, both in terms of the payment system, technical and payment procedures and it is hoped that related parties can guide tax subjects in undergoing these changes, so that tax subjects can carry out their obligations properly in paying PPh and BPHTB (Iswara et al., 2019).

The transfer of land rights itself is a legal act in terms of the transfer of rights that is carried out intentionally so that the rights to the land are released from the previous owner and transferred to the new owner. With the transfer of these rights, it shows that a legal act has been carried out intentionally by one party to transfer the rights to the land they own to another party. Article 37 of PP No. 24 of 1997 states that the process of transferring land rights can occur by carrying out a process or transaction of buying and selling, exchanging, granting, income in a company and other legal acts that result in the transfer

of something except for auctions, because in an auction the transfer of these rights can be proven by showing evidence of a deed from an authorized PPAT in accordance with the provisions of the Law itself. Land registration for the transfer process from the previous owner to the new owner is very important, land registration is an activity that is carried out continuously by legal subjects with the aim of obtaining certainty of ownership of a plot of land and buildings. Land registration in Indonesia is carried out by the National Land Agency which has been authorized by Law No. 10 of 2006.

BPN as an agency tasked with registering land, BPN must process data from land ownership books that have been registered so that there are no disputes in land registration that is carried out for the second time. In addition to the process of buying and selling, inheritance and grants, ownership rights can also occur due to government regulations given by authorized agencies in accordance with applicable provisions. The transfer of land rights, specifically ownership rights, can be carried out properly if the PPAT carries out and ensures the truth of the ownership rights and regarding his authority will act in the process of transferring ownership rights and must ensure the truth of the transfer documents. The imposition of income tax in the process of transferring land and building rights is regulated in PP No. 34 of 2016. The regulation is declared effective after 30 days of the regulation being enacted. And the regulation that is a derivative of PP No. 34 of 2016 in terms of the imposition of income tax is PMK No. 261/PMK/03/2016 Concerning the procedures for depositing, reporting and exemptions from the imposition of tax on land and building rights (Lora & Mathon, 2021).

Transactions on the transfer of these rights, especially in the form of simple houses and flats, are carried out by taxpayers with a rate of 1%. And a rate of 2.5% is imposed on transfer transactions carried out by taxpayers whose main job is transferring rights to land and buildings. In the imposition of tax on the transfer of rights to land and buildings, there is a term called PTKP or better known as Non-Taxable Income. This PTKP is a transfer of land rights with a transaction amount or gross of IDR 60,000,000. Based on this provision, the taxpayer cannot be subject to PPh on the transfer of rights to his land, several stages that must be fulfilled by the taxpayer in obtaining his rights (Bangunan, 2021).

Challenges in Optimizing Income Tax in Land Transfer Transactions

PPh has the potential in state revenue from income derived from land and/or building transfer transactions. However, in optimizing that potential, there are several challenges or obstacles in the implementation of its collection. The challenge of optimizing income tax in land transfer transactions is a complex issue that involves various legal, economic, and administrative dimensions. In general, the challenges in implementing income tax optimization are caused by indications of taxpayer non-compliance in paying the income tax. The non-compliance that is often encountered is that taxpayers

collude to evade the obligation to pay income tax on property transfer in front of the authorized officials by manipulating the buying and selling value, which does not match the market price, so the taxpayers also pay their taxes in an incorrect amount (Bandiyono & Fitriyani, 2021).

The level of taxpayer compliance in paying taxes can be said to be still low due to the lack of socialization to taxpayers regarding the importance of paying taxes. There are still many taxpayers who are not aware of their obligation to pay taxes, whether personal or corporate. Additionally, the level of public trust, which is still low, can also affect taxpayer compliance. The lack of transparency in the use of tax funds by the government decreases public trust in the taxation system (Rachamawati & Ernandi, 2024). The community still thinks that the taxes paid will be corrupted, so the community seems unwilling to suffer losses and reluctant to pay their tax obligations (Hendry, 2017). This weakens the role of taxes as a tool for generating state revenue, which significantly impacts the country's finances. When taxpayers simultaneously avoid paying their taxes, the revenue that the state should have earned from those transactions is lost. This can cause disruptions to the national budget and limit public spending on essential services and development. In the long term, this can hinder economic growth and jeopardize the overall well-being of society (Faizi & Siregar, 2023).

The tax compliance of our society seems to largely still need to be enforced because, for now, the fact is that it cannot fully rely on the tax awareness of the community. The tax system that uses the Self-Assessment System softens the coercive nature of this tax. Taxpayers are given the opportunity to fulfil their tax obligations themselves, with the hope that they will meet their tax obligations correctly, and if the public's understanding becomes more mature and aware of the importance of taxes, it is not impossible that the coercive nature of taxes will disappear on its own. However, what happened was the opposite; this well-functioning system was exploited by the public to fulfil their tax obligations at their convenience (Budima et al., 2020).

Based on Lawrence M. Friedman's Legal System Theory, the factors underlying the public's non-compliance with income tax payments on PHTB transactions can be examined from three aspects, *first*, from the legal structure factor. There are still law enforcement officers in the field of land, particularly in this case, the authority of Notaries/PPAT. Notaris/PPAT, in carrying out their duties as deed makers, are not exempt from taxation (Dwivi, 2021). In this case, it is the income tax (PPh). However, in practice, Notaris/PPAT collaborate with Taxpayers to include a price in the sale and purchase deed that is lower than the market price, which can also occur at the request of the seller or buyer to avoid or reduce their tax obligations (Fatmawati & Adriansyah, 2023).

Second, from the factor of legal substance. The substance of the law relates to the rules or content of the legislation itself. It should be emphasized that a legal substance, namely legislation, must be clear and firm. This is necessary so that law enforcement does not need to make various interpretations or interpretations. If the substance of a regulation is vague and unclear, it opens up opportunities for law enforcement to interpret it according to their own thinking patterns, which will lead to misinterpretations and result in the absence of legal certainty. In this case, there are obstacles in the complex and frequently changing tax regulations, creating uncertainty for taxpayers in calculating and reporting income tax from land transactions. The complicated mechanism makes it difficult for taxpayers to understand the accurate calculation mechanism (Harina et al., 2023).

Third, from the factor of legal culture. Legal culture essentially encompasses the values underlying the prevailing law, and these values are abstract conceptions of what is considered good and worthy of adherence and what is considered bad and must be avoided. In law enforcement, the cultural values can be articulated in principles and steadfast views in attitudes and actions as a series of ultimate values to create social renewal (law as a tool of social engineering) and maintain and uphold social control to achieve peace in community interactions (Sutrisna, 2020). This factor significantly influences the level of compliance in society. Tax compliance closely relates to the legal culture. Low awareness of tax obligations, a lack of transparency, and the complexity of the tax system are the main challenges in optimizing tax revenue from land transfer transactions. Taxpayer awareness affects compliance. The higher the level of taxpayer awareness, the more likely they are to fulfil their tax obligations, specifically paying taxes, thereby increasing tax revenue (Latofah & Harjo, 2020). A legal culture that does not fully support voluntary compliance becomes a crucial obstacle in the tax system (Basir, 2022).

Realizing the various challenges in the implementation of PPh collection on PHTB transactions, the Indonesian government must take strategic steps to enhance taxpayer awareness and compliance, build the integrity of tax officials, and strengthen law enforcement. The state/government has undertaken and will continue to undertake various efforts to enhance taxpayer compliance, such as modernizing tax administration to accelerate the realization of good governance and periodically explaining the allocation and use of tax money to the public. These efforts aim to improve service delivery and encourage taxpayer compliance in paying income tax (PPh) (Goodfellow & Owen, 2020).

Second, the socialization of policies regarding the procedures for paying income tax on PHTB transactions, including technical aspects such as calculation procedures, reporting mechanisms, applicable tax rates, and required documents in PHTB transactions, becomes a crucial strategy for optimizing tax collection and minimizing the potential reduction in state tax

revenue. These ongoing efforts require a comprehensive approach that involves all layers of society, from the public, property business actors, and legal practitioners to academics and professionals in the field of taxation. Socialization is not merely a transfer of information but rather a deep educational process aimed at enhancing public understanding of the taxation mechanism, the significance of tax contributions to national development, and the legal consequences of non-compliance (Septiani & Djaja, 2023).

Third, the modification and refinement of tax devices and regulations are strategic efforts to create a tax system that is more transparent, fair, and easily understood by all stakeholders. The focus of regulatory improvements is to create a comprehensive legal framework that both tax officials and taxpayers can easily understand through simpler, more systematic language. These enhancements include efforts to eliminate ambiguities in the interpretation of regulations, simplify administrative procedures, and provide more detailed and clear technical guidelines (Aslamiyah, 2021). Efforts to modify tax regulations involve a series of systematic stages, starting with a critical analysis of existing regulations, identifying gaps and complexities that hinder compliance, and evaluating the impact of these regulations on tax practices in the field. The main focus is to create legal products that not only meet formal legal aspects but also provide substantive clarity for taxpayers in understanding and fulfilling their tax obligations (Maulidia et al., 2023).

The goal of these efforts to achieve state revenue targets from the taxation sector is a comprehensive strategy that not only aims to meet fiscal targets but also holds more fundamental significance in the context of national development and societal welfare. The main objective of the series of tax policies and strategies is to transform the potential tax revenue into concrete instruments for infrastructure development, the improvement of public service quality, poverty alleviation, and the creation of a just economic ecosystem (Kamalia et al., 2024). Where every tax contribution has a direct impact on improving the quality of life for the community and sustainable development.

Conclusion

Based on the discussion that has been outlined, it shows that, *first*, the mechanism of income tax on the transfer of land and building rights (PHTB) is imposed on the amount of income received or obtained by the party transferring or selling the rights to land and/or buildings. PP No. 71 of 2008 regulates income tax. Article 2 of PP No. 71 of 2008 mandates the payment of income tax prior to the signing of the land transfer deed. Taxpayers conduct transactions involving the transfer of rights, particularly those in the form of simple houses and apartments, at a rate of 1%, while those whose primary occupation is conducting PHTB are subject to a rate of 2.5%. *Second*, the challenge of optimization often manifests as non-compliance, where taxpayers conspire to evade the obligation to pay income tax on property transfers

before authorized officials. This is achieved by manipulating the sale and purchase value, which does not align with the market price. Consequently, the taxpayers end up paying their taxes incorrectly. Three factors contribute to non-compliance: the evolving legal framework and intricate mechanisms, the existence of land law enforcers within the legal structure who aid taxpayers in evading PPh payments, and a legal culture that lacks awareness of the procedures and significance of PPh payments on PHTB. Therefore, the tax sector needs to implement a series of tax policy strategies to meet national revenue targets. These strategies are comprehensive and not only aim to meet fiscal targets, but also hold fundamental significance in the context of national development and community welfare.

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