

Tanggung jawab perpajakan pejabat pembuat akta tanah dalam membuat akta peralihan hak atas tanah dan/atau bangunan(akta jual beli) di Kabupaten Tabanan berkaitan dengan peraturan daerah Kabupaten Tabanan nomor 9 Tahun 2010 tentang bea perolehan hak atas tanah dan/atau bangunan = Land deed official taxation responsibility in making deed of land and/or building assignment (deed of purchase) at Tabanan district related to regional regulation No. 9/2010 regarding land and/or building acquisition rights duties

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Abstrak

Pejabat Pembuat Akta Tanah (PPAT) adalah pejabat umum yang berwenang untuk membuat akta peralihan hak atas tanah dan/atau bangunan, salah satunya akta jual beli. Dalam proses pembuatan akta tersebut calon penjual dan pembeli diwajibkan untuk membayarkan Pajak Penghasilan (PPh) dan Bea Perolehan Hak atas Tanah dan/atau Bangunan (BPHTB) terlebih dahulu sebelum akta jual beli dapat diproses dan ditandatangani dihadapan PPAT. Terhadap harga jual yang disampaikan para penghadap yang tidak sesuai dengan harga jual sebenarnya yang bertujuan untuk mengurangi pajak adalah diluar/bukan merupakan tanggung jawab PPAT. PPAT tidak membuktikan kebenaran material dari akta tersebut, dan hanya bertanggung jawab atas kebenaran formal. Bahwa dalam pengenaan BPHTB di Kabupaten Tabanan, akibat adanya pasal-pasal dalam Peraturan Daerah Kabupaten Tabanan Nomor 9 Tahun 2010 tentang BPHTB yang isinya saling bertentangan mengenai saat terutangnya pajak, yaitu Pasal 9 ayat (1) dengan ayat (2) dan Pasal 18 ayat (1), maka aturan yang digunakan adalah Pasal 9 ayat (1) dan (2) dimana pajak harus dilunasi sebelum terjadinya perolehan hak dalam hal ini pembuatan dan penandatanganan akta jual beli. Hal ini juga sesuai dengan aturan Pasal 103 ayat (2) huruf h dan i Peraturan Menteri Negara Agraria (PMNA) Nomor 3 Tahun 1997 tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah yang mewajibkan PPAT untuk meminta kliennya untuk menyerahkan bukti pelunasan PPh dan BPHTB sebelum akta jual beli dibuat dan ditandatangani.

.....Land Deed Official (PPAT) is a general officers that have the authority to make the deed of land and/or building assignment, one of it is deed of purchase. In the process of making such deed, the future seller and buyer are obliged to pay Income Tax (PPh) and Land and/or Building Acquisition Rights duties (BPHTB) prior from the deed of purchase could be processed and signed in front of PPAT. In this research there are two main issues, which are what is the responsibility PPAT towards the price of purchase which is given by the appearers which is not in accordance with the real purchase price which is aimed to reduce the tax, and which regulation is used to pay the PPh and BPHTB connected with the the deed of land and/or building assignment (deed of purchase) which is made in front of the PPAT in related to Law No. 28/2009 regarding local tax and retribution. The answer to that issue is that the responsibility of PPAT is the activity to draw up (in this case filling the form that have been prepared by the Land Office, read and sign the deed, therefore PPAT can not prove the material truth from the deed. PPAT guarantee the content of the deed based on what the parties have stated, meaning that what is registered by the PPAT is correct is the will of the parties, including in deciding the price of the object purchase. Notary/PPAT can't meddle or intervene the parties in

deciding the price, PPAT will only responsible for that price only if PPAT join the decision on the price of transaction which is not in accordance with its real price. The Second issue is about the regulation that is used with the conflicting articles, the regulation that is used is better to refer to the arrangement of article 9 (1) and (2) where tax need to be paid before assigning the right, in this case the making and signing of deed of purchase. It is in accordance with the arrangement of article 103 (2) (h) and (i) State Minister of Agrarian Affairs Regulation (PMNA) No. 3/1997 regarding the Provision of the Implementation of Government Regulation No. 24/1997 regarding Land Registration that obliged PPAT to ask their client to give the evidence of payment of PPh and BPHTB before the deed of purchase is been made and signed.