

Analisis Kebijakan Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB) Atas Perjanjian Pengikatan Jual Beli (PPJB) di DKI Jakarta = Policy Analysis of Land and Building Rights Acquisition Fees (BPHTB) on Sale and Purchase Binding Agreements (PPJB) in DKI Jakarta

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Abstrak

Perjanjian pengikatan jual beli atas unit properti yang meningkat diindikasikan terjadinya penghindaran pajak bea perolehan hak atas tanah dan bangunan di ibukota Jakarta. Upaya untuk mencegah terjadinya penghindaran pajak tersebut, Pemerintah Provinsi DKI Jakarta telah menerbitkan kebijakan pajak bea perolehan hak atas tanah dan/atau bangunan atas perjanjian pendahuluan pengikatan jual beli sebagai kredit pajak daerah. Penelitian ini bertujuan untuk menganalisis kebijakan bea perolehan hak atas tanah dan bangunan atas perjanjian pengikatan jual beli ditinjau dari kepastian hukum, serta dampaknya bagi masyarakat dan pengembang properti. Penelitian ini menggunakan metode kualitatif deskriptif. Hasil analisis menemukan ketidakpastian hukum atas kebijakan bea perolehan hak atas tanah dan bangunan atas perjanjian pengikatan jual beli karena bertentangan dengan peraturan yang lebih tinggi (*lex speialis les generalis*) berimplikasi tidak dapat mewujudkan fungsi budgetair, tidak memenuhi prinsip fleksibilitas administrasi sebagai Kredit Pajak Daerah, tidak memenuhi prinsip keberterimaan secara politis karena pendefinisian mengandung multi interpretasi dan tidak memenuhi substansi dasar pengenaan pajak terutang. Dampak kebijakan tersebut bagi masyarakat secara ekonomis menjadi beban dan tidak adil, sedangkan bagi pengembang properti akan mengalami kesulitan menerapkan ketentuan pengenaan bea perolehan hak atas tanah dan bangunan saat ditandatangani perjanjian pengikatan jual beli dengan pihak calon pembeli karena kebijakan tersebut bertentangan dengan Undang-Undang Perpajakan.

.....The increase in the sale and purchase agreement on property units is an indication of the avoidance of taxes on the acquisition of land and building rights in the capital city of Jakarta. In an effort to prevent such tax evasion, the Provincial Government of DKI Jakarta has issued a tax policy on the acquisition of land and/or building rights on the preliminary agreement for binding sale and purchase as a local tax credit. This study aims to analyze the policy for the acquisition of land and building rights for binding sale and purchase agreements in terms of legal certainty, as well as its impact on the community and property developers. This research uses descriptive qualitative method. The results of the analysis found legal uncertainty over the policy of land and building rights acquisition fees for binding sale and purchase agreements because it was contrary to higher regulations (*lex speialis les generalis*) which had implications for not being able to realize the budgetair function, not meeting the principle of administrative flexibility as a Regional Tax Credit, fulfills the principle of political acceptance because its definition contains multiple interpretations and does not meet the basic substance of the imposition of tax payable. The impact of this policy on the community is economically burdensome and unfair, while property developers will have difficulty implementing the provisions for imposing duties on the acquisition of land and building rights when the sale and purchase agreement is signed with the prospective buyer because the policy is contrary to the Taxation Law.