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Tinjauan Asas Proporsionalitas terhadap Pengaturan Perlindungan Hukum bagi Pihak Ketiga dalam Penyitaan pada Penagihan Pajak dengan Surat Paksa
Rio Putra Dewanto, Dr. Arvie Johan, S.H., M.Hum.
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TINJAUAN ASAS PROPORSIONALITAS TERHADAP PENGATURAN PERLINDUNGAN HUKUM BAGI PIHAK KETIGA DALAM PENYITAAN PADA PENAGIHAN PAJAK DENGAN SURAT PAKSA

Rio Putra Dewanto[1], Arvie Johan[2]

INTISARI

Penagihan pajak dengan surat paksa memberikan kewenangan kepada negara untuk melakukan penyitaan terhadap harta Penanggung Pajak guna menjamin pelunasan utang pajak. Dalam pelaksanaannya, penyitaan dapat berdampak pada kepentingan pihak ketiga yang memiliki hak atas barang dalam penguasaan Penanggung Pajak. UU PPSP telah menyediakan beberapa bentuk perlindungan bagi pihak ketiga, tetapi pengaturannya perlu ditinjau berdasarkan keseimbangan antara perlindungan pihak ketiga dan kepentingan negara dalam menjamin pelunasan utang pajak. Penelitian ini bertujuan menganalisis pengaturan perlindungan hukum bagi pihak ketiga dalam UU PPSP berdasarkan asas proporsionalitas.

Penelitian ini merupakan penelitian hukum normatif dengan menggunakan data sekunder berupa bahan hukum primer dan sekunder. Penelitian menggunakan pendekatan perundang-undangan dan konseptual. Pendekatan perundang-undangan digunakan untuk menelaah UU PPSP beserta peraturan pelaksanaannya, sedangkan pendekatan konseptual digunakan untuk menganalisis perlindungan hukum dan asas proporsionalitas melalui sub-asas kesesuaian, kebutuhan, dan keseimbangan.

Hasil penelitian menunjukkan bahwa UU PPSP mengatur lima bentuk perlindungan, yaitu pembatasan objek sita, pengumuman lelang, hak sanggahan, penangguhan pelaksanaan penagihan, dan pencabutan sita berdasarkan putusan pengadilan berkekuatan hukum tetap. Perlindungan tersebut terutama bekerja pada fase pra-lelang. Pada fase pasca-lelang, UU PPSP tidak menyediakan mekanisme khusus berupa pengembalian barang, penyerahan hasil penjualan, atau kompensasi. Perlindungan pra-lelang memenuhi sub-asas kesesuaian, tetapi belum memenuhi kebutuhan dan keseimbangan. Pada fase pasca-lelang, ketiga sub-asas tersebut belum terpenuhi. Dengan demikian, perlindungan hukum bagi pihak ketiga dalam UU PPSP belum sepenuhnya memenuhi asas proporsionalitas, dengan keterbatasan paling signifikan pada fase pasca-lelang.

Kata Kunci: asas proporsionalitas, pihak ketiga, penyitaan, penagihan pajak, surat paksa.

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A REVIEW OF THE PRINCIPLE OF PROPORTIONALITY IN THE REGULATION OF LEGAL PROTECTION FOR THIRD PARTIES IN SEIZURE IN TAX COLLECTION BY DISTRESS WARRANT

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ABSTRACT

Tax collection by distress warrant authorizes the state to seize the assets of a Taxpayer Liable for Tax Debt to ensure the settlement of tax liabilities. In its implementation, seizure may affect the interests of third parties who have rights over assets in the possession of the Taxpayer Liable for Tax Debt. The Law on Tax Collection by Distress Warrant provides several forms of protection for third parties. However, its regulation needs to be examined based on the balance between third-party protection and the state's interest in ensuring the settlement of tax liabilities. This research aims to analyze the regulation of legal protection for third parties under the Law on Tax Collection by Distress Warrant based on the principle of proportionality.

This research constitutes normative legal research using secondary data consisting of primary and secondary legal materials. The research employs statutory and conceptual approaches. The statutory approach is used to examine the Law on Tax Collection by Distress Warrant and its implementing regulations, while the conceptual approach is used to analyze legal protection and the principle of proportionality through the sub-principles of suitability, necessity, and balancing.

The results show that the Law on Tax Collection by Distress Warrant provides five forms of protection, namely limitations on the objects subject to seizure, auction announcements, the right to file an objection, suspension of tax collection proceedings, and the release of seizure based on a final and binding court decision. These forms of protection primarily operate during the pre-auction phase. In the post-auction phase, the Law does not provide specific mechanisms for the return of assets, the transfer of sale proceeds, or compensation. Pre-auction protection satisfies the sub-principle of suitability but does not satisfy necessity and balancing. In the post-auction phase, none of the three sub-principles is satisfied. Therefore, legal protection for third parties under the Law on Tax Collection by Distress Warrant does not fully satisfy the principle of proportionality, with the most significant limitation occurring in the post-auction phase.

***Keywords**: principle of proportionality, third party, seizure, tax collection, distress warrant.*

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