

INTISARI

PEMBAYARAN PAJAK BEA PEROLEHAN HAK ATAS TANAH DAN BANGUNAN OLEH PENERIMA WASIAT DITINJAU DARI UNDANG-UNDANG NOMOR 28 TAHUN 2009 TENTANG PAJAK DAERAH DAN RETRIBUSI DAERAH, SERTA PERATURAN PELAKSANAANYA DI DAERAH ISTIMEWA YOGYAKARTA

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Tujuan dari penelitian ini adalah untuk mengetahui dan menganalisis kajian yuridis pembayaran pajak terutang Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB) atas perolehan hak atas tanah dan bangunan karena Hibah Wasiat berdasarkan Undang-Undang Nomor 28 Tahun 2009 tentang Pajak Daerah dan Retribusi Daerah (UU PDRD), serta Peraturan Pelaksananya di Daerah Istimewa Yogyakarta. Penelitian ini juga dilakukan untuk mengetahui dan memamparkan praktik pelaksanaan pembayaran pajak BPHTB karena hibah wasiat oleh penerima wasiat yang dihadapan Notaris di Daerah Istimewa Yogyakarta.

Penelitian ini merupakan penelitian hukum Normatif Empiris, dimana data yang digunakan meliputi data primer dan data sekunder. Pengumpulan data dilakukan dengan penelitian kepustakaan dan penelitian lapangan. Data yang terkumpul selanjutnya diolah, dianalisis, dan disusun secara sistematis. Analisis sesuai aspek-aspek yang diteliti dan selanjutnya diambil kesimpulan untuk menjawab rumusan masalah yang diajukan.

Berdasarkan penelitian yang dilakukan diperoleh kesimpulan, *pertama* pengaturan pembayaran pajak BPHTB atas perolehan hak atas tanah dan bangunan karena hibah wasiat diatur pada Undang-Undang Nomor 21 Tahun 1997 tentang Bea Perolehan Hak Atas Tanah dan Bangunan, Undang-Undang Nomor 20 Tahun 2000 tentang Perubahan Atas UU BPHTB, UU PDRD, Peraturan Daerah (PERDA) Kota Yogyakarta Nomor 8 Tahun 2010 tentang Bea Perolehan Hak Atas Tanah dan Bangunan, dan Peraturan Walikota (PERWALI) Yogyakarta Nomor 102 Tahun 2010 tentang petunjuk Pelaksanaan Peraturan Daerah Kota Yogyakarta Nomor 8 Tahun 2010 tentang Bea Perolehan Hak Atas Tanah dan Bangunan, dalam peraturan tersebut terjadi ketidaksesuaian antar peraturan, sehingga perlu dilakukannya Harmonisasi Peraturan Perundang-Undangan. *Kedua*, dalam praktiknya Notaris tidak dapat menjalankan ketentuan dalam UU PDRD, PERDA, dan PERWALI. Pajak BPHTB tidak dapat dikenakan pada saat dibuat dan ditandatanganinya akta. Notaris memaknai akta yang maksud adalah akta wasiat, wasiat baru terbuka apabila terjadinya kematian dari pemberi wasiat. Pada saat dibuat dan ditandatanganinya akta wasiat, belum adanya perolehan hak. Seharusnya BPHTB terutang sejak tanggal yang bersangkutan mendaftarkan peralihan haknya ke Kantor Pertanahan.

Kata Kunci : Hibah Wasiat, Wasiat, Bea Perolehan Hak Atas Tanah dan Bangunan

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ABSTRACT

TAX PAYMENT OF LAND AND BUILDING RIGHTS BY A RECIPIENT OF WILL ACCORDING TO LAW NUMBER 28 OF 2009 CONCERNING REGIONAL TAXES AND REGIONAL RETRIBUTIONS, AS WELL AS THE IMPLEMENTING REGULATIONS IN THE SPECIAL REGION OF YOGYAKARTA

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The purpose of this research is to find out and analyze the juridical study of the collection payable tax on Land and Building Rights Acquisition (BPHTB) for the acquisition of rights based on the will grant according to Law No. 28 of 2009 concerning Regional Taxes and Regional Retributions, as well as the implementing regulations in Special Region of Yogyakarta. This research was also conducted to identify and describe the implementation of the payment of Land and Building Rights Acquisition Tax (BPHTB) by the recipient of a will in front of Notary conducted in Sepcial Region of Yogyakarta.

This research is a legal normative empirical research. The data used include primary data and secondary data. The data was carried out by means of library research and field research and then processed and analysed systematically. The analysis is carried out in accordance with the aspects studied and then the conclusions are drawn to answer the problem.

Based on the research concluded *first*, the regulation payment of BPHTB on the acquisition of land and buildings rights because of a will grant are regulated in Law Number 21 of 1997 concerning Acquisition Fees for Land and Building Rights, Law Number 20 of 2000 concerning Amendments to Law Number 21 of 1997 concerning Fees for the Acquisition of Land and Buildings Rights, Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions, Regional Regulation of Yogyakarta City Number 8 of 2010 concerning Fees for Acquiring Land and Buildings Rights, and Yogyakarta Mayor Regulation Number 102 of 2010 concerning Guidelines for the Implementation of Yogyakarta City Regional Regulation Number 8 of 2010 concerning Fees for Acquiring to Land and Buildings Rights. In these regulations there is a discrepancy between the regulations. This regulation requires harmonization of law and regulations. *Second*, during the implementation, the Notary cannot carry out the provisions in Law Number 28 of 2009, Yogyakarta City Regional Regulation Number 8 of 2010 concerning Fees for Acquiring to Land and Buildings Rights, and Yogyakarta Mayor Regulation Number 102 of 2010 concerning Guidelines for the Implementation of Yogyakarta City Regional Regulation Number 8 of 2010 concerning Fees for Acquisition of Land and Building Rights regarding tax payable on the acquisition of land and buildings rights due to a will grants. BPHTB cannot be imposed at the time when the deed is signed. The notary interprets the deed as the deed of a will, a new will will be opened in the event of the death of the testator. At the time of the establishment and signing of the will, there was no acquisition of rights. BPHTB should be owed from the date in question registering the transfer of its rights to the Land Office.

Key word : Will grants, Wills, Fees for acquisition of land and buildings rights

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