

PERTIMBANGAN HAKIM TERHADAP NOTARIS/PEJABAT PEMBUAT AKTA TANAH PADA KASUS PEMALSUAN SURAT SETORAN PAJAK PENGHASILAN DITINJAU DARI PRINSIP *EQUALITY* PERPAJAKAN

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis pertimbangan hakim terhadap notaris/PPAT pada kasus pemalsuan surat setoran pajak penghasilan berdasarkan prinsip *equality* serta terwujudkannya prinsip *equality* terhadap penerapan pidana pada Putusan No. 2601/Pid.B/2003/PN.Mdn, Putusan No. 156/Pid.Sus-TPK/2015/PN. Smg dan Putusan No. 388 K/Pid.Sus/2019.

Penelitian ini merupakan penelitian hukum normatif. Data yang digunakan adalah berupa data sekunder. Penggalan data dilakukan dengan studi kepustakaan dan wawancara yang dilakukan kepada narasumber. Setelah data terkumpul, data sekunder tersebut kemudian diolah dan dianalisis. Analisis dilakukan dengan cara kualitatif dengan mengelompokkan data aspek-aspek yang diteliti, dan disusun dalam laporan bersifat deskriptif.

Kesimpulan yang diperoleh ialah pertimbangan hakim terhadap notaris/PPAT pada kasus pemalsuan surat setoran pajak penghasilan bahwa terdapatnya fenomena disparitas penerapan pidana. Pada ketiga putusan pengadilan didapat kesimpulan bahwa notaris/PPAT hanya membantu proses pendaftaran hak atas tanah klien tanpa adanya surat kuasa sehingga menimbulkan disparitas penerapan pidana. Disparitas terjadi pada kasus yang serupa atau sejenis dikarenakan belum terdapatnya legalitas atau aturan mengenai kedudukan notaris/PPAT dalam membantu proses pendaftaran hak atas tanah. Kepastian hukum (*certainty*) mengenai kedudukan notaris/PPAT dalam membayarkan pajak penghasilan klien belum diatur sehingga prinsip *equality* tidak dapat terlaksana dengan baik. Upaya mewujudkan prinsip *equality* dapat dilakukan dengan cara: hakim berpedoman pada PERMA Nomor 1 tahun 2020 dan yurisprudensi serta perlunya perubahan terkait Pasal 43 UU KUP.

Kata kunci: Disparitas penerapan pidana, pajak penghasilan, prinsip *equality*.

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CONSIDERATION OF JUDGES ON NOTARIES/OFFICIALS FOR LAND DEED ESTABLISHMENT IN CASE OF FORGIVENESS OF INCOME TAX DEPOSIT REVIEWS FROM TAX EQUALITY PRINCIPLES

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ABSTRACT

This study aims to identify and analyze the judge's consideration of a notary/PPAT in the case of counterfeiting an income tax deposit based on the principle of *equality* and the realization of the principle of *equality* against the application of criminal judgment in Decision No. 2601/Pid.B/2003/PN.Mdn, Decision No. 156/Pid.Sus-TPK/2015/PN. SMG and Decision No. 388 K/Pid.Sus/2019.

This research is a normative legal research. The data used is in the form of secondary data. Data mining was carried out by literature study and interviews with resource persons. After the data is collected, the secondary data is then processed and analyzed. The analysis was carried out in a qualitative way by grouping the data on the aspects studied, and compiled in a descriptive report.

The conclusion obtained is the judge's consideration of the notary/PPAT in the case of forgery of income tax deposit that there is a phenomenon of disparity in the application of criminal sanctions. In the three court decisions, it was concluded that the notary/PPAT only assists the process of registering the client's land rights without a power of attorney, causing disparities in the application of crime. Disparities occurring in similar or similar cases due to the absence of legality or regulations regarding the position of the notary/PPAT in assisting land rights registration process. Legal *certainty* regarding the position of a notary/PPAT in paying the client's income tax has not been regulated so that the principle of *equality* cannot be implemented properly. Efforts to realize the principle of *equality* can be done by: judges are guided by PERMA Number 1 of 2020 and jurisprudence and the need for changes to Article 43 of the KUP Law.

Keywords: disparity in criminal application, income tax and principle of equality

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