PEMBEBANAN BPHTB (BEA PEROLEHAN HAK ATAS TANAH DAN BANGUNAN) GANDA KEPADA AHLI WARIS INDIVIDU DALAM PEMBAGIAN HARTA WARIS

ABSTRAK

Penelitian ini membahas permasalahan pembebanan Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB) ganda kepada ahli waris individu dalam pembagian harta waris. Berdasarkan Pasal 833 KUH Perdata, ahli waris memperoleh hak atas harta pewaris secara otomatis pada saat pewaris meninggal maka seharusnya hanya terjadi satu peristiwa hukum. Namun, dalam praktik perpajakan, peralihan hak waris sering dipandang sebagai dua peristiwa hukum terpisah, yaitu peralihan menjadi hak bersama para ahli waris dan peralihan dari hak bersama ke ahli waris individu. Kondisi ini menimbulkan potensi pajak ganda karena BPHTB dikenakan pada kedua tahap tersebut. Fenomena ini tidak hanya menambah beban finansial ahli waris, tetapi juga menimbulkan ketidakpastian hukum akibat ketidaksinkronan antara ketentuan hukum waris dan hukum perpajakan yang dilandaskan pada Pasal 2 ayat (2) huruf a Undang-Undang Nomor 21 Tahun 1997 tentang BPHTB sebagaimana telah diubah dengan Undang-Undang Nomor 20 Tahun 2000. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual, memanfaatkan bahan hukum primer, sekunder, dan tersier. Tujuan penelitian adalah untuk menjelaskan mekanisme pembebanan BPHTB ganda kepada ahli waris individu serta merumuskan penetapan BPHTB yang ideal demi kepastian hukum. Hasil yang diharapkan adalah rekomendasi regulasi yang ideal yang dapat menyatukan dan menghubungkan hukum waris dan hukum perpajakan sehingga pengenaan BPHTB dapat diterapkan secara adil dan proporsional, serta menghindari beban pajak berlapis bagi masyarakat sehingga kepastian hukum dapat terjamin.

Kata Kunci: BPHTB, Ahli Waris Individu, dan Kepastian Hukum

DOUBLE IMPOSITION OF BPHTB (DUTY ON THE ACQUISITION OF LAND AND BUILDING RIGHTS) ON INDIVIDUAL HEIRS IN THE DISTRIBUTION OF INHERITED ASSETS

ABSTRACT

This study analyzes the issue of the double imposition of the Land and Building Rights Acquisition Duty (BPHTB) on individual heirs in the distribution of inheritance. Pursuant to Article 833 of the Indonesian Civil Code, heirs automatically acquire rights over the decedent's estate at the moment of death, which legally constitutes a single succession event. In practice, however, tax authorities frequently construe inheritance transfers as two distinct legal events: first, the transfer into joint ownership among the heirs, and second, the subsequent allocation of shares to individual heirs. This construction generates a potential for double taxation, as BPHTB is levied at both stages. Such a practice not only imposes additional financial burdens on heirs but also produces legal uncertainty arising from the lack of coherence between inheritance law and tax law, particularly in relation to Article 2 paragraph (2) letter (a) of Law Number 21 of 1997 concerning the Duty on the Acquisition of Rights to Land and Buildings (BPHTB), as amended by Law Number 20 of 2000. The research adopts a normative juridical methodology employing statute approach, case approach, and conceptual approach, drawing upon primary, secondary, and tertiary legal sources. Its objective is to elucidate the mechanism underlying the double imposition of BPHTB on individual heirs and to formulate an ideal regulatory framework for its application in order to safeguard legal certainty. The expected contribution is the development of regulatory recommendations capable of harmonizing inheritance law and tax law, thereby ensuring that BPHTB is applied in a fair and proportionate manner, preventing multiple tax burdens on society, and strengthening the principle of legal certainty.

Keywords: *BPHTB, Individual Heirs, and Legal Certainty*