



Legal Accountability of Notaries/ PPATs in the Mismanagement of Tax Fund Deposits

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Abstract: In recent years, the role of notaries/PPATs (Land Deed Officials) in legal disputes has become more significant, particularly regarding the handling of land rights tax payments. Although service users often trust notaries/PPATs with these payments, there is no specific legal authority that permits notaries to act on behalf of taxpayers in such matters. This practice, based solely on trust, is considered an additional service by notaries/PPATs but lacks clear legal backing, posing considerable risks for notaries/PPATs who may face criminal or civil liability if they fail to fulfill their fiduciary duties. This research examines the legal implications of these tax payment practices, focusing on the extent of notaries/PPATs' authority and responsibility. Through normative legal analysis, the study explores the concepts of attributive and delegated powers, particularly in managing PPH (Income Tax) and BPHTB (Land and Building Rights Acquisition Duty) deposits. The findings indicate that not all notaries/PPATs properly exercise their authority, potentially leading to ethical violations. The research concludes that notaries/PPATs who engage in tax evasion or misuse entrusted funds must be held accountable, as such actions violate the professional code of ethics, which demands honesty, integrity, and responsibility.

Keywords: *Authority of Notary/PPAT; Legality of tax deposit; Problematic Notary/PPAT*



INTRODUCTION

Land is an increasing human need because people's lives continue to grow and multiply every day. To fulfill the needs and residence of the community, everyone needs land that can be used as a place of residence, a place of business or for other purposes. The more rapid the growth of society, the more areas and land for people's lives¹. In addition to meeting all basic needs for humans, land is also something that must be considered clear ownership. Because in this case, when the ownership of land and territory is not clear, it can lead to disputes and other problems that will arise. Land can be categorized as a basic need for humans because its allocation is very clear, one of which is for housing. In this case, of course, there are those who have land rights in large quantities and there are also those who do not have land rights. Therefore, the government provides legal certainty regarding the fulfillment of land rights through land rights registration.²

To avoid disputes and regional problems that arise, the government policy to provide legal certainty for land ownership rights is to register land ownership rights with a Notary / PPAT.³ Notary is a public official who is authorized to make all authentic deeds, certify documents, and provide legal advice in matters relating to certain legal regulations⁴, Notary is proven to be a figure recognized as a party to the making of legal deeds and beneficial to the community. Notaries are also called Public Officials who specialize in making official documents that have a broad scope, in contrast to other officials whose authority is limited to certain tasks stipulated by law. Authentic deeds as the strongest and most complete evidence have an important role in every legal relationship in people's lives. In various business

¹ Arifah Nur Khoirunnisa, "Analisis Terhadap Penggelapan Dana Titipan Pembayaran Pajak Bumi Bangunan Oleh Notaris/PPAT Dan Tanggung Jawabnya Dalam Sudut Pandang Kode Etik Notaris," *Jurnal Locus Penelitian Dan Pengabdian* 3, no. 3 (May 7, 2024): 275–81, <https://doi.org/10.58344/locus.v3i3.2555>.

² Ian Gough, "Defining Floors and Ceilings: The Contribution of Human Needs Theory," *Sustainability: Science, Practice and Policy* 16, no. 1 (December 10, 2020): 215, <https://doi.org/10.1080/15487733.2020.1814033>.

³ Chintya Agnisya Putri and Gunarto Gunarto, "Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah," *Jurnal Akta* 5, no. 1 (March 18, 2018): 267, <https://doi.org/10.30659/akta.v5i1.2611>.

⁴ Kunni Afifah, "Tanggung Jawab Dan Perlindungan Hukum Bagi Notaris Secara Perdata Terhadap Akta Yang Dibuatnya," *Jurnal Lex Renaissance* 2, no. 1 (January 23, 2017), <https://doi.org/10.20885/JLR.vol2.iss1.art10>.



relationships, activities in banking, land, social activities, and others, the need for written evidence in the form of authentic deeds is increasing in line with the growing demands for legal certainty in various economic and social relationships, both at the national, regional and global levels⁵. Through an authentic deed that clearly determines rights and obligations, guarantees legal certainty, and at the same time is also expected to avoid disputes. Although such disputes cannot be avoided, in the process of resolving such disputes, authentic deeds, which are the strongest written evidence and are fulfilled, make a real contribution to the settlement of cases cheaply and quickly.⁶

The responsibility of a Notary as a Land Deed Official, in the field of tax law, is related to the fulfillment of obligations for stamp duty and taxes that must be deposited in connection with a letter made by a notary as a "Land Deed Official," one of which is regarding the imposition of "Fees for Acquisition of Land and Building Rights (BPHTB)" contained in "Law Number 20 of 2000 concerning amendments to Law Number 21 of 1997 concerning BPHTB". Similarly, the Notary as PPAT is obliged to deposit the tax collected from the client, because the notary, in this case also as a Land Deed Official, has automatically been designated as a tax collector by the tax authorities. In relation to the code of ethics of notaries of the Indonesian Notary Association, in chapter III article 3 concerning obligations, prohibitions and exceptions to obligations, states that notaries in carrying out their official duties are aware of their obligations, work alone, honestly, impartially and with a full sense of responsibility and notaries in carrying out their positions provide legal services to the people who need their services as well as possible. If it is related to this statement, then it is appropriate for a notary to work or carry out his position solely for the public interest, and not only think about the benefits he will get.

Meanwhile, PPAT is a public official who is authorized to make deeds for certain legal actions that have something to do with land or property rights

⁵ Dedy Pramono, "Kekuatan Pembuktian Akta Yang Dibuat Oleh Notaris Selaku Pejabat Umum Menurut Hukum Acara Perdata Di Indonesia," *Lex Journalica* 12, no. 3 (2015): 147736.

⁶ Republik Indonesia, *Penjelasan Atas Undang-Undang Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris, TLNRI Nomor 4432.*, 2004.



over the house⁷. Both are tasked with ensuring that property sale and purchase agreements or land ownership rights will be carried out in accordance with applicable law. Budi Harsono explained that Government Regulation No. 37 of 1998 defines PPAT as a government official in charge of making official documents related to land rights or property rights over apartment units, and issuing deeds. On the other hand, 'A public official is an individual selected by a reputable organization to meet the specific needs of the community in a particular field or task'. Based on Article 1 paragraph (1) of Government Regulation Number 24 Year 2016 which amends Government Regulation Number 37 Year 1998 or also known as PPAT Regulation, we can understand the meaning and duties of PPAT. A PPAT is a prominent public official who is authorized to make official documents related to certain legal transactions regarding Land Rights or Property Rights over a Flat Unit.⁸

Before signing the deed in front of PPAT based on Article 91 paragraph (1) of the Regional Tax and Retribution Law (PDRD), where PPAT can only sign the deed of sale and purchase of land and/or building after the taxpayer submits proof of tax payment. The consequences received by notaries as PPAT, for violations in accordance with the provisions of Article 91 paragraph (1) of the Regional Tax and Regional Retribution Law (PDRD) are subject to sanctions in the form of administrative sanctions with a fine of Rp 7,500,000. - (seven million five hundred thousand rupiah) for each violation. This is in accordance with the provisions of Article 93 paragraph (1) of the Regional Tax and Retribution Law (PDRD), in conjunction with Article 27 paragraph (1) of Medan City Regional Regulation Number 9 Year 2011 on Fees for Acquisition of Rights on Land and Building. In practice, the Notary/PPAT has a major role in the implementation of the BPHT payment, so the taxpayer must pay the BPHTB tax first.

The juridical basis for the collection of BPHTB is stated in the Regional Tax and Retribution Law, which clearly and firmly regulates that in order to be able to collect taxes in a region, each type of regional tax must be stipulated

⁷ IBLAM School of Law, "Pengertian PPAT Dan Apa Perbedaannya Dengan Notaris," December 15, 2023, <https://iblam.ac.id/2023/12/15/pengertian-ppat-dan-apa-perbedaannya-dengan-notaris/>.

⁸ Republik Indonesia, *Peraturan Pemerintahan Mengenai PPPAT, PP No 24, 2016, LN Nomor 120, TLN Nomor 5893, Ps. 1 Ayat (1)*, 2016.



by regional regulation of the regency, or city, collected in a regency, or city, must first stipulate regional regulations on the regional tax. In the implementation of tax levies related to BPHTB, of course, it is related to various parties, including Notaries / Land Deed Making Officials (PPAT), Banks, local governments, local Land Offices and Courts to support the implementation of tax levies obtained from BPHTB.

Regarding the calculation, procedures and payment process of the Tax on Acquisition of Land and Building Rights (BPHTB) in a transfer of land and building rights, it is inseparable from the assistance of a Notary / PPAT, because in general the public does not know how the calculation, procedures and payment process of the BPHTB tax. In connection with the registration of land rights or the transfer of land rights, in addition to taxpayers having to pay taxes related to the transfer of land rights, on the other hand, notaries can play an important role in the process of transferring land rights. In accordance with the provisions of Article 15 of Law Number 11 Year 2016 on Tax Amnesty, which states that Taxpayers who have obtained a Certificate and paid the Redemption Money on:

- a. Immovable assets in the form of land and/or buildings; and/or
- b. Assets in the form of shares, which have not been registered in the name of the taxpayer, must transfer the rights into the name of the taxpayer.⁹

Therefore, based on the articles already mentioned, Article 1 Law Number 15 Year 2017 on Registration of Transfer of Land Rights in the Framework of Tax Amnesty confirms that the transfer of rights as intended, is carried out through the signing of a Statement Letter by both parties, namely the Nominee and the Taxpayer, in the presence of a Notary stating that the land and building in question really belong to the Taxpayer.¹⁰

The urgency of this research becomes increasingly apparent with the rise in cases of trust abuse involving Notaries/PPATs in the management of tax funds entrusted by clients. Such abuse not only damages the integrity of

⁹ Republik Indonesia, *Undang-Undang Pengampunan Pajak, UU No. 11 Tahun 2016, LN 131 Tahun 2016, TLN No. 5899, 2016.*

¹⁰ Republik Indonesia, *Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 15 Tahun 2017 Tentang Pendaftaran Peralihan Hak Atas Tanah Dalam Rangka Pengampunan Pajak, 2017.*



the Notary/PPAT profession but also erodes public trust in legal institutions and the legal process as a whole. Clients who fall victim to trust abuse often face significant financial losses, while the legal process they must undergo to seek justice can be lengthy and complicated. The lack of specific and clear regulations regarding the authority of Notaries/PPATs in managing tax funds creates legal loopholes that can be exploited by unscrupulous individuals. This regulatory ambiguity not only confuses Notaries/PPATs who wish to perform their duties correctly but also leaves clients vulnerable to fraud and legal violations. In this context, the need for comprehensive and effective legal solutions becomes increasingly urgent.

This research is critically important not only because it seeks to identify and understand the existing legal issues, but also because it aims to develop regulatory recommendations that can prevent future trust abuse. By strengthening regulations and clarifying the limits of Notaries/PPATs' authority, it is hoped that a safer and more transparent legal environment can be created for clients, while also enhancing the integrity of the Notary/PPAT profession as guardians of justice. Additionally, this research strives to provide a stronger legal foundation for policymakers in designing more effective regulations, thereby reducing legal uncertainty and improving public confidence in Indonesia's legal system. Through this article, the government expects all taxpayers who have not yet transferred their land and buildings to do so. The transfer is carried out in front of a Notary who states that the land and building in question are really owned by the taxpayer. This is because the notary also has an important role in making the transfer of land and building rights for taxpayers. After the transfer is made by a notary, the taxpayer must register it with the local land office in accordance with the provisions of laws and regulations. In recent decades, many notary/PPAT personnel have stumbled into legal problems, both problems that are not realized and problems that are realized by the person concerned. One case that often occurs is the abuse of trust by using land rights tax payments deposited by service users to the notary/PPAT concerned.

Basically, there are no rules regarding notaries authorized to pay taxes that must be paid by taxpayers. The deposit of tax money made by taxpayers is only based on trust in the notary / PPAT. Because most notaries consider the



deposit of tax money to the notary and the obligation of the notary to deposit it is a form of additional service provided by the notary to the taxpayer. However, until now there has been no specific legality that regulates this either in the form of permissibility or prohibition. So that the habit of depositing tax payments is a habit that is often carried out by the notary / PPAT profession, with the deposit of tax payment money by taxpayers to notaries, the rights and obligations of notaries will arise either in the form of criminal or civil. Because if the notary does not pay the tax payment deposit, the notary can be criminally prosecuted with allegations of fraud or embezzlement. However, it can also be sued civilly, but it must first be determined whether the notary's actions constitute an unlawful act or default.

THEORETICAL BASIS

In this discussion, the author employs authority theory and legal protection theory to strengthen the analysis of the authority of Notaries/PPATs in the context of managing tax payments entrusted by clients. Authority Theory, as outlined by Phillips M. Hudgeon, underpins all governmental activities based on legitimate authority, encompassing attribution, delegation, and mandate. Attributive power is often described as the legal division of state power, while delegated power arises from the delegation of attributive authority, and mandates do not involve the delegation of authority. In the context of Notaries/PPATs, this theory is crucial for understanding how their authority is established and how it should be exercised in managing tax payments entrusted by clients for the payment of PPH (Income Tax) and BPHTB (Land and Building Rights Acquisition Duty). However, not all Notaries/PPATs exercise this authority correctly, which can lead to legal issues.

Additionally, Legal Protection Theory as proposed by Fitzgerald, Salmond, and Phillips M. Hajong emphasizes the importance of harmonizing and regulating various societal interests through the imposition of certain limits. In the context of protecting clients' rights regarding entrusted tax funds, this theory is relevant as it illustrates that legal protection encompasses all mechanisms that allow individuals to exercise and safeguard their rights as



prescribed by law.¹¹ This protection is essential to ensure that clients' rights are well-guarded, especially in cases of trust abuse by Notaries/PPATs. This study aims to explore in greater depth how authority theory and legal protection theory can be applied in the context of tax custody by Notaries/PPATs and how concepts such as attribution, delegation, and the protection of client rights relate to the issues discussed. The author also conducts a critical analysis of the limitations and relevance of these theories in the research context to provide a more comprehensive understanding of the root causes of trust abuse and to identify appropriate solutions. To strengthen the arguments, this research incorporates additional, more specific references related to authority theory, legal protection, and Notary/PPAT practices in Indonesia.

RESEARCH METHODS

This study employs Normative Legal Research as its primary methodological approach, wherein law is conceptualized as a system of rules or norms that serve as a standard for community behavior.¹² This approach is supported by the expert opinions of Husein Umar, who emphasizes the importance of methodical examination in research, and Peter Mahmud Marzuki, who underlines the significance of legal research as an activity aimed at resolving legal issues through proper identification, reasoning, and analysis.¹³ The research method will be applied practically by conducting a detailed analysis of relevant laws and regulations, focusing on those that pertain to the responsibilities and authority of Notaries/PPATs. This involves reviewing existing legal texts, case law, and legal doctrines to assess how the current legal framework addresses or fails to address the issue of trust abuse in tax management.¹⁴ The study will also explore the implications of these

¹¹ P. J. Fitzgerald, *Salmond on Jurisprudence* (London: Sweet and Maxwell, 1966).

¹² Husein Umar, *Metode Penelitian Untuk Skripsi Dan Tesis Bisnis* (Jakarta: Raja Grafindo Persada, 2004), 21.

¹³ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2014), 60.

¹⁴ Johnny Ibrahim and Jonaedi Efendi, *Metode Penelitian Hukum Normatif Dan Empiris* (Depok: Prenada Media Group, 2018).



findings for legal practice and suggest potential improvements to the regulatory framework.¹⁵

While the normative method provides a robust framework for analyzing legal texts and concepts, it is important to acknowledge its limitations. This approach may not fully capture the practical realities or the socio-legal dynamics that influence the behavior of Notaries/PPATs. Moreover, normative research is primarily focused on the ideal legal structure, which may not always reflect actual practices. Recognizing these limitations, the study will remain cautious in drawing conclusions and will suggest areas for future research that could complement the normative analysis with empirical data or socio-legal perspectives.

RESULT AND DISCUSSION

What is the authority underlying the Notary/PPAT to accept the deposit of tax funds for the transfer of land and or building rights by the parties?

The state has an obligation to provide legal certainty to its people. With legal certainty as a guarantee that the law must be carried out in a good way. To fulfill legal certainty for the community, the government makes a rule that corresponds to what happens in society itself. In the sense that the laws made by the government are made by following the development of existing laws. In other words, legal certainty formed in the form of legislation is a form of providing legal certainty for the community. In social life, everyone is obliged to carry out their obligations as citizens. One of the obligations that must be fulfilled is to pay taxes that have been determined in the applicable laws and regulations. According to P.J.A Adriani who says taxes are contributions to the State (which can be imposed) owed by those who are obliged to pay according to general regulations (laws) by not getting a direct re-achievement that can be appointed and whose use is to finance general expenses related to the task of the State to organize the government.¹⁶

It is stated that those who pay the mandatory contribution are taxpayers. Taxpayers here are individuals or entities including tax payments, tax deductions, and tax collectors who have tax rights and obligations in

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2008).

¹⁶ Bohari, *Pengantar Hukum Pajak* (Jakarta: PT RajaGrafindo Persada, 2002), 23.



accordance with tax law. The term taxpayer is also contained in the Taxation Law which explains that the taxpayer is related to subjective tax, which is sought first who the subject is, then the existence of the tax object is seen. Taxpayers themselves are individuals or entities including tax payments, tax deductions, and tax collectors who have tax rights and obligations in accordance with tax laws. Because many taxpayers own land or buildings that were previously in the name of someone else. Then they register in the name of their land, so this is very necessary for the process of changing the name to the name of the actual taxpayer¹⁷

In the case of land and building tax collection is carried out with the Official Assessment System, which is a tax collection system that charges the authority to determine the amount of tax payable to the tax authorities or taxation officials as tax collectors. In the Official Assessment tax collection system, the taxpayer is passive and the tax payable only exists after the issuance of a tax assessment letter by the tax authorities.¹⁸ Article 1 of Law Number 15 Year 2017 on Registration of Transfer of Land Rights in the Framework of Tax Amnesty confirms that the transfer of rights as intended, is carried out through the signing of a Statement Letter by both parties, namely the Nominee and the Taxpayer, in the presence of a Notary stating that the land and building in question are truly owned by the Taxpayer.¹⁹ Through this article, the government expects all taxpayers who have not yet transferred their land and buildings to do so. The transfer is carried out in the presence of a Notary/PPAT who states that the land and building in question are really owned by the taxpayer. This is because the notary/PPAT also has an important role in making the transfer of land and building rights for taxpayers.

¹⁷ Esmael Abdu and Mohammd Adem, "Tax Compliance Behavior of Taxpayers in Ethiopia: A Review Paper," *Cogent Economics & Finance* 11, no. 1 (December 31, 2023): 2189559, <https://doi.org/10.1080/23322039.2023.2189559>.

¹⁸ Kay Blaufus et al., "Tax Misperception and Its Effects on Decision Making – Literature Review and Behavioral Taxpayer Response Model," *European Accounting Review* 31, no. 1 (January 1, 2022): 141, <https://doi.org/10.1080/09638180.2020.1852095>.

¹⁹ Republik Indonesia, *Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 15 Tahun 2017 Tentang Pendaftaran Peralihan Hak Atas Tanah Dalam Rangka Pengampunan Pajak*.



Payment of BPHTB tax is an obligation for taxpayers to complete their transactions in accordance with statutory regulations. The obligation to pay BPHTB is the obligation of the taxpayer, not the obligation of the Notary/PPAT. The notary here only helps his client to deposit the tax. In this case the Notary only helps to provide the best service for his client. The BPHTB Law provides provisions that must be followed by authorized public officials in the transfer of rights to land and buildings, namely:

- (1) Notary/PPAT can only sign the deed of transfer of land and building rights after the taxpayer submits proof of BPHTB tax payment.
- (2) The Head of the Auction Office can only sign the minutes of the auction for the acquisition of land and building rights after the taxpayer submits proof of BPHTB payment.
- (3) The authorized official signs and decrees the granting of land and building rights after providing proof of deposit of BPHTB payments.
- (4) Registration of transfer of land rights due to inheritance or bequest can only be done by the district/city land official by submitting proof of BPHTB tax payment.

Article 24 paragraph (1) stipulates that the obligation to pay BPHTB tax is the obligation of the taxpayer, not the Notary/PPAT. The article only emphasizes that the Notary/PPAT can sign the deed if the taxpayer has paid the BPHTB tax. Therefore, the Notary here only plays a role to assist the client to deposit BPHTB tax. The law also does not stipulate that the PPAT's authority to determine the correctness of the BPHTB payment and the right to check is the Regional Revenue Office by verifying by matching the Deposit Letter Number with the existing data. Thus, the Notary/PPAT who has received the deposit of BPHTB tax payment from his client is based on article 24 of the BPHTB Law that the one who deposits BPHTB is the taxpayer, not the Notary. If the Notary has received the deposit, the Notary must immediately deposit the money and if there are problems in terms of payment, the Notary / PPAT is responsible for the problems that occur. Therefore, the Notary in carrying out his duties and positions in providing services to clients must be more careful and continue to uphold the UUJN and the professional code of ethics so that in carrying out his position can be safe and smooth.



When a Notary/PPAT receives the BPHTB tax payment from their client, the responsibility to deposit those funds into the state treasury remains with the taxpayer, not the Notary/PPAT, as emphasized in Article 24 of the BPHTB Law. However, once the Notary/PPAT has received the deposit from the client, they are obligated to immediately transfer it. Failure to fulfill this obligation can result in legal consequences for the Notary/PPAT, including both administrative and criminal sanctions, depending on the circumstances.²⁰

If problems arise in the BPHTB tax payment process, such as delays or errors in depositing the funds, the Notary/PPAT, as the party who received the money from the client, is responsible for addressing any issues that may occur. This responsibility includes, but is not limited to, providing explanations to the client, resolving issues with the tax authorities, and ensuring that the payment is ultimately completed correctly. In performing these duties, the Notary/PPAT must act professionally and with caution, in accordance with the provisions of the UUJN (Notary Law) and their professional code of ethics.²¹ The obligation to act with care and full responsibility is crucial for maintaining the integrity of the Notary/PPAT profession and for protecting the interests of clients. By ensuring that every transaction is carried out in accordance with the applicable laws and procedures, Notaries/PPAT not only protect themselves from potential legal issues but also help maintain public trust in legal institutions. This is especially important given that Notaries/PPAT serve as legal officers responsible for ensuring that every property transaction is conducted with clear legal certainty.

Furthermore, in providing services to clients, Notaries/PPAT must always adhere to the UUJN and the professional code of ethics. This includes maintaining client confidentiality, acting with honesty and impartiality, and

²⁰ Paweł Blajer, "The Effect of Registration in the Land Register in the Framework of Real Estate Sale (Comparative Study)," *European Property Law Journal* 11, no. 1-2 (November 9, 2022): 60, <https://doi.org/10.1515/eplj-2022-0005>.

²¹ Denny Tyas Saputra, Moediarti Trisnaningsih, and Dewy Nelly Yanthy, "Legal Responsibility for The Notary in Creating The Coppie Collationee for Sale and Purchase Deals Before The Officer of Land Asset Concerning Land Registration Land with Notary Office and Government Regulation Number 24 of 1997 Concerning Land Registrati," *International Journal of Latin Notary* 2, no. 1 (September 30, 2021): 12, <https://doi.org/10.61968/journal.v2i1.13>.



always prioritizing the interests of clients over personal gain. In doing so, Notaries/PPAT can perform their duties safely and smoothly, while also upholding the good name of the profession in the eyes of the public.²²

In other words, the role of Notaries/PPAT in managing BPHTB tax is that of an intermediary who helps ensure that clients fulfill their tax obligations. However, the ultimate responsibility for paying the tax remains with the taxpayer, and Notaries/PPAT must act with caution to avoid mistakes that could have legal repercussions. Integrity, professionalism, and adherence to the law and ethical standards are key for Notaries/PPAT in carrying out their duties effectively and maintaining public trust.

What are the legal consequences of the misuse of entrustment of payment of tax funds for transfer of land and or building rights by Notaries/PPATs?

BPHTB is the responsibility of the party receiving the land and/or development lease, not the Notary/PPAT as stipulated in Article 1 paragraph (45) of the Regional Tax and Retribution Law No. 28 of 2009, which states: "Taxpayers are individuals and entities, including taxpayers, tax collectors, who have tax rights and obligations based on local tax laws and regulations. Indonesia's self-assessment system allows taxpayers to calculate and pay the tax payable themselves with the calculation and payment of taxes to be paid, Notary / PPAT can support taxpayers as a third party.

As a good citizen, everyone is obliged to carry out their obligations as a citizen, one of which is obliged to pay taxes that have been determined in the laws and regulations. Taxpayers put forward by P.J.A. Andriani who explains that taxes are dues to the State that can be imposed by those who owe are obliged to pay in accordance with the laws and regulations that are useful for financing expenses related to the State and society. In Article 1 of Law Number 15 of 2017 concerning the registration of Land Rights, it is emphasized that the transfer of rights as intended is by signing a statement letter by both parties in the presence of a Notary / PPAT stating that the land and its property really belongs to the taxpayer. In this case because the notary/PPAT has an important role in the transfer of land rights. Parties who have an obligation to pay tax on

²² Eliana Morandi, "The Role of the Notary in Real Estate Conveyancing," *Digital Evidence & Elec. Signature L. Rev.* 4 (2007): 27.



the land they are transacting can be done through the deposit of tax payments to the Notary/PPAT. However, basically there are no rules governing the authority of Notary/PPAT in paying taxes that must be paid by taxpayers. The entrustment of tax funds to the Notary/PPAT is an initiative of the Notary/PPAT itself and the trust of the client to the Notary/PPAT concerned. Custody of goods is a legal act based on an agreement between the two parties.

Many of the Notary/PPATs themselves consider that the deposit of tax funds to the Notary/PPAT is one of the obligations that must be carried out by the Notary/PPAT, but until now there has been no specific regulation and legality that regulates it either in the form of things that are allowed or prohibited. However, because in practice it has become a habit that is often done by Notary/PPAT, this is not at issue. Because this has not been regulated in clear laws, it often becomes a big problem that can harm both parties. In the absence of regulations that mention and strengthen the entrustment of taxes to Notary / PPAT, it is not uncommon for cases of embezzlement of funds and fraud by Notary / PPAT on client taxpayer payments. With the activity of entrusting taxpayer payments, the Notary / PPAT has the rights and obligations of the Notary / PPAT. If when the notary is given a mandate in the deposit of tax payments but commits a violation, the Notary / PPAT must be responsible for what he has done.

Notaries/PPATs who misuse the receipt of BPHTB and Income Tax deposits that deal precisely with their duties. This can fall into the field of Notary/PPAT Corruption and consequently become government money. The interpretation of embezzlement is regulated in Chapter XXIV (book II) of the Criminal Code, consisting of 5 Articles (372-376). One of them, namely Article 372 of the Criminal Code, is the crime of embezzlement in its main form, the formulation of which reads: "Any person who deliberately unlawfully controls an object which is supposed to or partly belongs to another person and which is in his possession by reason of no crime, shall, being guilty of embezzlement, be punished with imprisonment for a term not exceeding 4 (four) years or with a fine not exceeding 900 (nine hundred) million rupiahs". The legal consequences for a Notary/PPAT who is guilty of embezzling taxpayers' money by paying land and building tax according to criminal law, Article 374 of the Criminal Code, with a maximum fine of 5 years, according to tax law.



Notary/PPAT in accordance with Article 41 C Paragraph 4, shall be punished with a maximum imprisonment of 1 (one) year and a maximum fine of Rp500,000,000, - (Five Hundred Million Rupiah), Article 8 of the Corruption Crime Law is applicable to Notary/PPAT. Article 415 of the Criminal Code, imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp150,000,000, - (one hundred and fifty million rupiah) and a maximum of Rp750,000,000, - (seven hundred and fifty million rupiah).

A criminal offense (*strafbaar feit*) refers to any activity that is prohibited by law, where a violation of such prohibition can result in criminal sanctions. These sanctions usually consist of imprisonment, fines, or a combination of both, depending on the severity of the offense committed. In the context of criminal law, a violation of the law is not only a matter of breaking the rules but is also related to the principles of morality and the responsibility of the individuals or groups involved. Such violations create widespread social impact, undermine the legal order, and can lead to a loss of public trust in legal institutions. Within the scope of duties and responsibilities of a Notary/PPAT, a criminal offense can occur if they engage in actions that are legally prohibited during the execution of their duties. For example, if a Notary/PPAT is involved in embezzling funds or manipulating legal documents, such actions clearly violate the law and professional ethics. Notaries/PPATs who are proven to have committed such actions can be subject to criminal sanctions in accordance with the applicable laws and regulations, including the threat of imprisonment and significant fines. These sanctions are intended to enforce the law and provide a deterrent effect for offenders, as well as to protect the public interest and the integrity of the profession.²³

As public officials authorized to draft authentic deeds and facilitate various legal transactions, Notaries/PPATs bear significant responsibilities. Every action they take must comply with the applicable laws and regulations, including the Notary Law (UUJN) and other related regulations. The professional code of ethics also serves as an important foundation for Notaries/PPATs in performing their duties, as it governs the behavioral norms

²³ Sarah Kebell, *Anti-Money Laundering Compliance and the Legal Profession*, 1st ed. (London: Routledge, 2021), 281, <https://doi.org/10.4324/9780429019906>.



that must be followed to maintain the integrity and credibility of the profession.²⁴ Violations of the code of ethics or legal regulations not only affect the individual Notary/PPAT involved but can also damage the overall image of the profession. Public trust in Notaries/PPATs as neutral and trustworthy officials can be compromised if there are cases of violations involving these officials. This, in turn, can lead to a decline in public confidence in the legal system as a whole.

CONCLUSION

Basically, in terms of entrustment of Land and Building Tax payments, there are no specific rules governing whether it can be done or not. However, in practice, the Notary/PPAT is accustomed to entrusting the payment of Land and Building Tax to the party concerned to the Notary/PPAT and to facilitate the client in paying the Land and Building Tax. Because there are no certain rules related to this, it is not uncommon for this to be used by unscrupulous Notaries to commit fraud and embezzlement of funds entrusted with land and building tax payments. When the Notary/PPAT commits the act of embezzlement and taxation, the Notary/PPAT concerned must take responsibility for his own actions. The offense committed by the Notary/PPAT has violated the Notary's code of ethics contained in Article 3 of the Notary Code of Ethics where the Notary must act honestly, with a sense of responsibility as also stated in the legislation and the contents of the Notary's oath of office. The importance of honesty and having good ethics and morals in carrying out the duties and authority of a Notary. Because the public also knows where a good, honest, ethical, and moral office is.

The legal consequences for Notary/PPAT who are guilty of embezzling taxpayers' money by paying Land and Building Tax in the Criminal Code, the maximum penalty stipulated in Article 374 of the Criminal Code is 5 (five) years, in the Taxation Law stipulated in Article 41 C, Paragraph 4, is punishable by imprisonment for a maximum of 1 (one) year and a maximum fine of Rp500,000,000, - (Five Hundred Million Rupiah). Article 8 of the Anti-

²⁴ Vilelmini Sosoni and John O'Shea, "Translating Property Law Terms: An Investigation of Greek Notarial Deeds and Their English Translations," *Perspectives* 29, no. 2 (March 4, 2021): 183, <https://doi.org/10.1080/0907676X.2020.1797840>.



Corruption Law already applies to Notary/PPAT. Article 415 of the Criminal Code, imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp150,000,000, - (one hundred and fifty million rupiah) and a maximum of Rp750,000,000, - seven hundred and fifty million rupiah). The responsibility will certainly be borne by the Notary/PPAT if caught committing a criminal offense, then the Notary can be subject to criminal sanctions according to the Criminal Code.

BIBLIOGRAPHY

- Abdu, Esmael, and Mohammd Adem. "Tax Compliance Behavior of Taxpayers in Ethiopia: A Review Paper." *Cogent Economics & Finance* 11, no. 1 (December 31, 2023): 2189559. <https://doi.org/10.1080/23322039.2023.2189559>.
- Afifah, Kunni. "Tanggung Jawab Dan Perlindungan Hukum Bagi Notaris Secara Perdata Terhadap Akta Yang Dibuatnya." *Jurnal Lex Renaissance* 2, no. 1 (January 23, 2017). <https://doi.org/10.20885/JLR.vol2.iss1.art10>.
- Agnisya Putri, Chintya, and Gunarto Gunarto. "Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah." *Jurnal Akta* 5, no. 1 (March 18, 2018): 267. <https://doi.org/10.30659/akta.v5i1.2611>.
- Blajer, Paweł. "The Effect of Registration in the Land Register in the Framework of Real Estate Sale (Comparative Study)." *European Property Law Journal* 11, no. 1-2 (November 9, 2022): 29-61. <https://doi.org/10.1515/eplj-2022-0005>.
- Blaufus, Kay, Malte Chirvi, Hans-Peter Huber, Ralf Maiterth, and Caren Sureth-Sloane. "Tax Misperception and Its Effects on Decision Making – Literature Review and Behavioral Taxpayer Response Model." *European Accounting Review* 31, no. 1 (January 1, 2022): 111-44. <https://doi.org/10.1080/09638180.2020.1852095>.
- Bohari. *Pengantar Hukum Pajak*. Jakarta: PT RajaGrafindo Persada, 2002.
- Fitzgerald, P. J. *Salmond on Jurisprudence*. London: Sweet and Maxwell, 1966.
- Gough, Ian. "Defining Floors and Ceilings: The Contribution of Human Needs Theory." *Sustainability: Science, Practice and Policy* 16, no. 1 (December 10, 2020): 208-19. <https://doi.org/10.1080/15487733.2020.1814033>.
- IBLAM School of Law. "Pengertian PPAT Dan Apa Perbedaannya Dengan Notaris," December 15, 2023. <https://iblam.ac.id/2023/12/15/pengertian-ppat-dan-apa-perbedaannya-dengan-notaris/>.
- Ibrahim, Johnny, and Jonaedi Efendi. *Metode Penelitian Hukum Normatif Dan Empiris*. Depok: Prenada Media Group, 2018.



- Kebbell, Sarah. *Anti-Money Laundering Compliance and the Legal Profession*. 1st ed. London: Routledge, 2021. <https://doi.org/10.4324/9780429019906>.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2008.
- — —. *Penelitian Hukum*. Jakarta: Kencana, 2014.
- Morandi, Eliana. "The Role of the Notary in Real Estate Conveyancing." *Digital Evidence & Elec. Signature L. Rev.* 4 (2007): 28.
- Nur Khoirunnisa, Arifah. "Analisis Terhadap Penggelapan Dana Titipan Pembayaran Pajak Bumi Bangunan Oleh Notaris/PPAT Dan Tanggung Jawabnya Dalam Sudut Pandang Kode Etik Notaris." *Jurnal Locus Penelitian Dan Pengabdian* 3, no. 3 (May 7, 2024): 275–81. <https://doi.org/10.58344/locus.v3i3.2555>.
- Pramono, Dedy. "Kekuatan Pembuktian Akta Yang Dibuat Oleh Notaris Selaku Pejabat Umum Menurut Hukum Acara Perdata Di Indonesia." *Lex Jurnalica* 12, no. 3 (2015): 147736.
- Republik Indonesia. *Penjelasan Atas Undang-Undang Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris, TLNRI Nomor 4432.*, 2004.
- — —. *Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 15 Tahun 2017 Tentang Pendaftaran Peralihan Hak Atas Tanah Dalam Rangka Pengampunan Pajak*, 2017.
- — —. *Peraturan Pemerintahan Mengenai PPPAT, PP No 24, 2016, LN Nomor 120, TLN Nomor 5893, Ps. 1 Ayat (1)*", 2016.
- — —. *Undang-Undang Pengampunan Pajak, UUU No. 11 Tahun 2016, LN 131 Tahun 2016, TLN No. 5899*, 2016.
- Sosoni, Vilelmini, and John O'Shea. "Translating Property Law Terms: An Investigation of Greek Notarial Deeds and Their English Translations." *Perspectives* 29, no. 2 (March 4, 2021): 184–98. <https://doi.org/10.1080/0907676X.2020.1797840>.
- Tyas Saputra, Denny, Moediarti Trisnarningsih, and Dewy Nelly Yanthy. "Legal Responsibility for The Notary in Creating The Coppie Collationee for Sale and Purchase Deals Before The Officer of Land Asset Concerning Land Registration Land with Notary Office and Government Regulation Number 24 of 1997 Concerning Land Registrati." *International Journal of Latin Notary* 2, no. 1 (September 30, 2021): 1–13. <https://doi.org/10.61968/journal.v2i1.13>.
- Umar, Husein. *Metode Penelitian Untuk Skripsi Dan Tesis Bisnis*. Jakarta: Raja Grafindo Persada, 2004.

