

## **The Implementation of Tax Payments Due to Systematic Land Registration in the DKI Jakarta Area**

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**Abstract.** *The aim of this study is to find out what tax payment procedures need to be carried out by applicants for systematic land registration or what is also called a complete systematic land registration program (PTSL), especially in the DKI Jakarta area. This study uses normative legal research methods with statutory and comparative approaches. The results of the study show that in the implementation of Complete Systematic Land Registration which is based on Presidential Instruction Number 2 of 2018 and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018, the PTSL program is in conflict with Law Number 28 of 2009 concerning Taxes Regions and Regional Levies in conjunction with DKI Jakarta Regional Regulation Number 18 of 2010 concerning Fees for Acquisition of Land and Building Rights. In implementing the PTSL Program, the provisions regarding land rights applicants being required to pay tax first before the certificate is issued are set aside, so that certificates can be issued by the Land Office without the land rights applicant needing to pay first. In this article, the author will discuss the implementation of land registration tax payments for which certificates have been issued in the PTSL Program.*

**Keywords:** *Acquisition; Land; Registration; Taxes.*

### **1. INTRODUCTION**

In order to guarantee legal certainty and legal protection for people's land in a fair and equitable manner, as well as encourage the country's economic growth in general and the people's economy in particular, the state should accelerate the complete system of land registration throughout the territory of the Republic of Indonesia by providing clear information on payments tax obligations borne by land registration as well as providing ease of payment of land registration tax. This is caused within regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No.6 of 2018 concerning Complete Systematic Land Registration and Presidential Instruction No.2 of 2018 concerning the Acceleration of Complete Systematic Land Registration in All Territories of the Republic of Indonesia, the first payment of land registration tax that should be paid During the land registration process, you do not

have to pay or receive an exception for that Systematic land registration taxes are not paid until the certificate is printed and completed.

Due to people's ignorance about tax debts, many people, when they receive the PTSL certificate, immediately keep it and don't look at the contents of the certificate again. So they don't know if the certificate they receive has arrears in Income Tax and Land and Building Rights Acquisition Fees. The public's ignorance about tax arrears is due to the fact that tax arrears during certificate registration were only implemented for the first time in the PTSL program which was implemented in 2018.

The existence of conflicting norms regarding the implementation of PTSL certainly means that the land registration program for all regions of Indonesia has the potential for uncertainty from a juridical perspective. If the provisions for outstanding BPHTB continue to be implemented for the PTSL program, the time period for which BPHTB will be owed is unclear, for poor people who wish to sell and/or transfer rights to land resulting from the PTSL program it will be difficult because they have to pay off the outstanding BPHTB and the mechanism for collecting outstanding BPHTB is not regulated properly. Legal certainty is something that cannot be separated from justice and the benefits of the law within the framework of the goal of achieving the law itself. But in fact, legal certainty is very few who understand the meaning and application because legal certainty is always seen as subjective by law enforcers. Legal certainty requires clear arrangements by the Government to regulate and force the public to comply with legal provisions. Indonesia is a legal country where all activities must be based on legal provisions. So the existence of legal rules means that the implementation of the law must be carried out in order to achieve legal certainty.<sup>1</sup>

The PTSL program is a land registration activity for the first time which is carried out simultaneously for all land registration objects throughout the territory of the Republic of Indonesia in one village/sub-district area or other equivalent name, which includes the collection of physical data and juridical data regarding one or a number of land registration objects for registration purposes. This policy is a national strategic program with the concept of building new land plot data and at the same time maintaining the quality of existing land plot data so that all land plots are registered completely and accurately.<sup>2</sup>

This Complete System Land Registration (PTSL) method is a government innovation through the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land

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<sup>1</sup>Deriangga Arrahmad Rahadiansyah Dan Habib Adjie, "Pengaturan Bphtb Terutang Dalam Penyelenggaraan Program Pendaftaran Tanah Sistematis Lengkap (Ptl)", *Istinbath: Jurnal Hukum*, Vol. 20, No. 1, 2023, p. 92.

<sup>2</sup>Biru Bara Nirvana Cahyadi dan Ertien Rining Nawangsari, "Efektivitas Program Ptl Sebagai Perlindungan Hukum Hak Atas Tanah", *Jurnal Kebijakan Publik*, Vol.13, No.4, 2022, p. 371.

Agency to provide legal certainty and legal protection of community land rights in a fair and equitable manner, as well as encouraging the country's economic growth in general and the people's economy. In carrying out its duties, carrying out land registration systematically, the National Land Agency adheres to Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No.6 of 2018 concerning Complete Systematic Land Registration and Presidential Instruction No.2 of 2018 concerning the Acceleration of Complete Systematic Land Registration in All Territories of the Republic of Indonesia.

The PTSL program carried out/implemented by the National Land Agency (BPN)/Regency/City Land Office is a follow-up to the National Agrarian Program (PRONA) with the hope that the community can really take advantage of this facility to register their land and the government can record it, accommodate so that the process of juridical data on land that has not been recorded can be recorded quickly, so that the provisions contained in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 12 of 2017 concerning the Acceleration of Complete Systematic Land Registration, the implementation of which will then be regulated in the following year with the promulgation of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia number 6 of 2018.<sup>3</sup>

The implementation of complete system land registration (PTSL) is carried out in villages in districts and sub-districts in districts and sub-districts in urban areas which covers all plots of land throughout the territory of the Republic of Indonesia. The aim of the PTSL program is to accelerate the provision of legal certainty and legal protection of community Land Rights in a definite, simple, fast, smooth, safe, fair, equitable and open and accountable manner, so as to increase the welfare and prosperity of society and the country's economy, as well as reduce and preventing land disputes and conflicts.<sup>4</sup>

However, it can be said that land registration through the PTSL system is not without costs, the certificate issued must first be completed with the tax payment obligations that must be paid to the state. Taxes in this case are land registration taxes for the first time in the form of BPHTB payments and Income Tax (PPH) when a land sale and purchase transaction occurs. Income Tax (PPH) will be requested for previous transactions, but not all previous transactions paid PPH. If you don't have PPH at the time of the transaction, to write off the tax owed, the National Land Agency will ask the land owner to pay the PPH first and then write off the arrears.

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<sup>3</sup>Muhsin Lambok Ilvira, "Ptsl Sebagai Sarana Masyarakat Dalam Memperoleh Legalitas Kepemilikan Hak Atas Tanah", *Jurnal Lex Justitia*, Vol. 3 No. 1, 2021, p. 95.

<sup>4</sup>Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Ka.BPN About Complete Systematic Land Registration Number 6 of 2018BN 2018/ No 501, hereinafter referred to as Ministerial Regulation Number 6 of 2018, article 2 paragraph (2).

Various regulations were created and refined in the implementation of PTSL to create guarantees of legal certainty and legal protection, as well as to reduce disputes. However, at the implementation level there are still obstacles that have the potential to become problems in the future, including: regarding land tax (PPH and BPHTB payable), human resources, facilities and infrastructure, problems with maximum excess absentee land and abandoned land, problems with data announcements, physical and juridical data, the problem of applying the principle of contradiction of delimitation and proof of rights. These problems have the potential for dispute, one of the causes of which is the position of the ATR/Ka Ministerial Regulation. BPN No. 6 of 2018, if viewed in terms of hierarchical theory of statutory regulations, it has a lower level compared to the problem settings described above. On the other hand, the contents of the ATR/Ka Ministerial Regulation. BPN No. 6 of 2018 there are conflicts with higher regulations. For example, provisions regarding land tax (PPH and BPHTB) owed are regulated in the law and its implementing regulations.<sup>5</sup>

In 2016, the Indonesian Government issued Government Regulation Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings and Sale and Purchase Agreements for Land and/or Buildings and their Amendments hereinafter referred to as PP No. 34 of 2016. Provisions Article 3 paragraph (2) PP No. 34 of 2016 states that the time when PPh is due is when part or all of the payment is received for the transfer of rights to land and/or buildings. Furthermore, the period for payment of Final Income Tax is regulated in Article 3 paragraph (4) PP No. 34 of 2016, which must be paid by the individual or entity concerned no later than the 15th (fifteenth) of the month following the month in which the payment is received.<sup>6</sup>In Regional Regulation no.18 of 2010 concerning Fees for Acquisition of Land and Building Rights (BPHTB). Subjects of BPHTB Tax are individuals or entities that obtain rights to land and/or buildings.<sup>7</sup>

Systematic land registration within the framework of a government program is indeed more profitable, compared to applying for land registration yourself at BPN. The rights holder must provide for many costs that must be paid. In implementing and managing PTSL files, the rights holder is still charged with administrative costs. In order to avoid cases of illegal levies (extortion), the Indonesian government issued a joint decision by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, the Minister of Home Affairs, as well as the Minister of Villages, Development of

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<sup>5</sup>Andi Amalia Handayani dan Yusriyandi, "Pendaftaran Tanah Melalui Pendaftaran Tanah Sistem Lengkap (PTSL)", Notarius, Volume 12 Nomor 1, 2019, p. 541.

<sup>6</sup>Government regulations concerning income tax on income from the transfer of rights to land and/or buildings, and binding sale and purchase agreements for land and/or buildings and their amendments Number 34 of 2016LN. 2016/No.168, TLN No. 5916, hereinafter referred to as PP Number 34 of 2016Article 3 Paragraph (2).

<sup>7</sup>Special Regional Regulations for the Capital City of Jakarta Concerning Fees for Acquisition of Land and Building Rights No.18 of 2010 LD DKI Jakarta of 2010 No. 18, hereinafter referred to as DKI Regional Regulation Number 18 of 2010 article 4 paragraph (1).

Disadvantaged Regions and Transmigration No. 34 of 2017 concerning Uniformization of Financing for Preparation of Systematic Land Registration.<sup>8</sup>

Complete System Land Registration in the DKI Jakarta area can also provide benefits to the DKI Jakarta National Land Agency so that it can create a complete picture of the village or sub-district. This will provide benefits to both BPN and related agencies because the administration of the complete land database is complete and reliable. The main target of land registration through PTSL, especially in the DKI Jakarta area, is to register land parcels as a whole, including land belonging to indigenous communities, state land, forest areas and other land parcels whose realization amount is adjusted to the amount of the APBN budget.

One of the sources of state revenue used to finance government spending and national development is taxes. Income from tax sources covers various tax sectors. Tax revenues indirectly aim to increase the prosperity and welfare of society. Therefore, the government is trying to increase revenue in the tax sector. In order to increase regional revenues from the taxation sector, the government has also made amendments to legislative regulations in the field of regional taxes and levies.

The object of BPHTB tax is the acquisition of rights to land or buildings, namely legal events or legal actions regarding transactions/transfer of rights which include the transfer of rights and the granting of new rights. The acquisition of rights includes the transfer of rights and the granting of new rights. In connection with the enactment of Law Number 28 of 2009 dated 15 September 2009 concerning regional taxes and regional levies, the authority to collect BPHTB has been handed over to the Regency/City Government. Hereinafter referred to as tax, is a mandatory contribution to the Region owed by an individual or entity that is forced to hand over the Management of BPHTB to the Regency or City government based on the Law, with no direct compensation and is used for regional needs as much as possible.

BPHTB before decentralization played a role in regional income because it was the largest income in profit sharing funds. Even though BPHTB is a central tax, it still contributes to regional income. After decentralization, BPHTB is a tax that is fully managed by the regional government. The imposition of BPHTB Tax and PPH on sporadic land registration is different from systematic registration. If during sporadic registration the applicant is required to pay BPHTB tax and bring proof of PPH payment first after the assessment letter is issued and cannot register. Print the certificate if the tax has not been paid.

The issue of PPh and BPHTB payable in the implementation of PTSL is regulated in Article 33 of the ATR/Ka BPN Ministerial Regulation No. 6 of 2018, which provides room for convenience in implementing the PTSL program, for those who do not or have not

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<sup>8</sup>Istiqamah, "Tinjauan Hukum Legalisasi Aset Melalui Pendaftaran Tanah Sistem Lengkap (PTSL) terhadap kepemilikan Tanah", *Jurisprudentie*, 01 June 2018, p. 229.

been able to pay PPh and BPHTB by making a statement of PPh and BPHTB owed. However, the provisions of Article 33 still require further explanation regarding the collection mechanism and how long it must be paid because the provisions of the legislation do not yet regulate the PPh and BPHTB payable regarding land tax. Although Article 33 only explains that the Head of the Land Office is obliged to submit a list of outstanding BPHTB and/or PPh payable periodically within 3 (three) months to the local Regent/Mayor and if there is a transfer of rights or changes to the Land Book and Land Title Certificate it can only be done after the person concerned has paid the outstanding PPh and BPHTB.<sup>9</sup>

The provisions for PPh payable are not regulated in Government Regulations, they do not clearly state when the tax is payable, it only stipulates that before the deed, auction minutes or other letter is signed by an authorized official, proof of payment of PPh must be shown first, in contrast to BPHTB regulations which clearly state that the tax payable arises when the deed, auction minutes or other related letters are signed by the authorized official, but on the other hand, the authorized official is prohibited from signing the deed, auction minutes or other related letters before showing proof of BPHTB payment.<sup>10</sup>

Another thing that is detrimental to the public in paying taxes owed in the PTSL program is that the indicator column in the Certificate is sometimes written incomplete, this makes it difficult for taxpayers, especially Income Tax (PPH) who will pay previous land sale and purchase taxes. The provisions of Article 33 of the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency No. 6 of 2018 still require further explanation regarding the mechanism for collecting the tax owed and when it must be paid because the statutory regulations do not yet regulate PPh and BPHTB land tax payable. So it can cause loss of regional income which is detrimental to regional income.

In this case, the DKI Regional Government has provided tax payment relief for first-time home ownership and the value is no more than IDR 2,000,000,000 (two billion Rupiah) in accordance with Gubernatorial Regulation 126 of 2017 concerning BPHTB Tax Exemption. However, this matter must still be requested and researched further so that it can be truly confirmed that the land on which the free BPHTB tax charge is requested truly meets the applicable requirements.

Based on the background outlined above, this research will formulate two research problems: first, How the Regional Tax and Income Tax provisions can be applied in the Complete System Land Registration program in the DKI Jakarta area. Then the

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<sup>9</sup>Susila Esdarwati, "The Importance of Legal Certainty in Complete Systematic Land Registration (Ptsl) for the Community", J-Pehi: Indonesian Legal Research Journal Volume 02, No. 01, 2021, Page 44.

<sup>10</sup>Ibid.

second research problem, What is the calculation and procedure for payment of Land and Building Rights Acquisition Tax and Income Tax payable for Complete System Land Registration program certificates in the DKI Jakarta area?

Based on the description above, this thesis proposal will discuss the calculation of BPHTB tax owed and PPH owed as well as how to pay BPHTB owed and PPH in the PTSL program issued by the National Land Agency, so the author is interested in conducting research with the title "Implementation of Payment of Tax Due in Systematic Land Registration In the DKI Jakarta Region".

## **2. RESEARCH METHODS**

The type of research used in this research is normative research. Normative research is research that specializes in solving legal problems based on written law and legal practice. The approach method used in this research is a case approach taken from Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No.6 of 2018 concerning Complete Systematic Land Registration and Presidential Instruction No.2 of 2018 concerning the Acceleration of Complete Systematic Land Registration in All Territories of the Republic of Indonesia linked to taxes owed as regulated in Law No. 28 of 2009 and Republic of Indonesia Government Regulation Number 34 of 2016. So this case will be analyzed regarding efforts to resolve problems that should occur in accordance with statutory regulations. The type of data used here is secondary data. Secondary data is data obtained through literature study. The use of secondary data is carried out because it refers to the form of research used, namely Normative. The data collection method used here uses literature study with secondary data collection carried out based on existing literature and statutory regulations in accordance with the problem topic being studied. The literature used here is online literature such as statutory regulations, national journals, as well as offline literature in existing literature. The location of the research is in the Special Capital Region of Jakarta Province in accordance with the object in the court decision which is the case example in this research. This research was taken because the case is in accordance with the topic to be researched regarding tax payable arising from PTSL certificates. The form of data analysis used here is Normative Qualitative data analysis which is based on secondary data obtained. Then it is processed based on your own understanding and opinion in accordance with existing legal developments. This qualitative research analysis is an analysis that examines a phenomenon or problem which is concluded into an opinion on the research taken inductively by adapting existing legal rules to the problem being studied.

## **3. RESULTS AND DISCUSSION**

### **3.1. Analysis Regional Tax and Income Tax provisions can be applied in the Complete System Land Registration program in the DKI Jakarta area**

The basic agrarian law Number 5 of 1960 does not discuss taxes payable in the land registration process. So this law does not explain whether or not the tax payable can

be applied. The term tax payable can be found in law number 28 of 2009 concerning regional taxes and regional levies. It is explained that the tax payable is the tax that must be paid at any time, in the tax period, in the tax year, or in part of the tax year in accordance with the provisions of regional tax laws and regulations.<sup>11</sup>

The tax collection system in general in Indonesia adheres to a self-assessment system, namely that taxpayers are given the trust to be able to calculate, calculate and pay the tax owed themselves, so that through this system the implementation of tax administration is expected to be carried out in a neat, controlled, simple and easy manner understood by members of the tax-paying community. The characteristics of the Self Assessment System are: a. the authority to determine the amount of tax payable rests with the taxpayer himself; b. active taxpayers, starting from calculating, depositing and reporting the tax owed themselves; c. It does not interfere and only supervises.<sup>12</sup>

Realized Regional Tax Revenue has a mean or average of 517146922282.20 or the equivalent of IDR 517,146,922,282. The standard deviation is 148138406478.184 or the equivalent of IDR 148,138,406,478. And the maximum value of 711132930456 or equivalent to IDR 711,132,930,456 occurred in 2017 in DKI Jakarta Province. The minimum value of 310754212682 or equivalent to IDR 310,754,212,682 occurred in 2013 in DKI Jakarta Province. Land and Building Rights Acquisition Fee (BPHTB) has a mean or average of 144482711290.80 or equivalent to IDR 144,482,711,291. The standard deviation is 34444732748,816 or the equivalent of IDR 34,444,732,749. And the maximum value of 197011816211 or equivalent to IDR 197,011,816,211 occurred in 2017 in DKI Jakarta Province. The minimum value of 111291709614 or equivalent to IDR 111,291,709,614 occurred in 2014 in DKI Jakarta Province. So the tax obtained by the DKI Jakarta government from BPHTB collections can be said to be very large.<sup>13</sup>

In order to monitor taxpayer compliance, as well as effectiveness in paying BPHTB taxes, a validation process is carried out by the regional tax service office, which was originally also carried out by the central tax service office through the Pratama Tax Service Office (KPP Pratama). In this validation process, officers will examine several things, including the suitability of the tax object with the Tax Object Number (NOP) for the land and building concerned, the suitability between the tax subjects, the suitability of the transaction value used as the basis for imposition of BPHTB tax. Thus, the BPHTB collection system does not fully adhere to a self-assessment system, in this case even though taxpayers are entrusted with being able to calculate, calculate and

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<sup>11</sup>Law No. 28 of 2009 concerning Regional Taxes and regional levies, article 1 No. 48

<sup>12</sup>R. R. Murjiyanto dan Samun Ismaya, "Kepastian Nilai Dasar Penghitungan Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB)", *Jurnal Hukum IUS QUIA IUSTUM* NO. 3 VOL. 22, 2015, p.495.

<sup>13</sup>Aida Nurul Hidayah Dan Suparno, "Analisis Penerapan Pembebasan Pbb Dan Bphtb Terhadap Penerimaan Pajak Daerah (Studi Empiris Di Upprd Tanjung Priok)", *Jurnal Ilmiah Wahana Akuntansi* Vol 14 (1), 2019, p. 106.



pay the tax owed themselves, there is the possibility of interference by tax officers in determining the fair value.<sup>14</sup>

If the tax owed as explained cannot be paid or paid off according to the date determined by the regional government. then in the process you will be subject to administrative fines and interest for ignoring the Regional Tax Bill or STPD which contains the tax bill and/or administrative sanctions in the form of interest and/or fines. The term tax payable in land registration is found in the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 6 of 2018 concerning complete system land registration.

In implementing the imposition of BPHTB tax in the DKI Jakarta Provincial Government, there is an obstacle or problem where the type of acquisition of new rights to land has not been certified in accordance with DKI Jakarta Regional Regulation No. 18 of 2010 concerning BPHTB Article 8 paragraph 1, it is stated that the time owed by BPHTB for the type of acquisition of new rights is calculated from the date the Decree (SK) is issued to grant new rights to land. The decision letter granting this right is in the form of a Decree from the Head of the Land Office issued by the BPN (National Land Agency) where the land or property is located. Determining when it is owed based on the date of the BPN Decree is a dilemma in society where many people feel disadvantaged because they have to be subject to administrative sanctions of 2% (two percent) of their monthly BPHTB tax principal due to delays in receiving the BPN Decree. In this case, the UPPD office also uses this sanction for applicants who are late in paying their PTSL tax.<sup>15</sup>

In the event that the recipient of the Land Rights Certificate is not or has not been able to pay the BPHTB and/or there are still arrears in PPh payments by other parties on the land in question, a Land Rights Certificate can still be issued.<sup>16</sup>In the event that a PTSL participant does not or has not been able to pay the BPHTB, the person concerned must make a letter stating that the BPHTB is owed.<sup>17</sup>In the event that the land parcel comes from the results of a sale and purchase in the past and the current buyer does not have proof of payment of PPh from the seller in the past, then the person concerned must make a statement of PPh owed.<sup>18</sup>

Issuance of certificates to recipients of rights as intended in paragraph (1) is carried out with the following provisions:

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<sup>14</sup>*Ibid.*, p. 496.

<sup>15</sup>Dominicus Donny P dan Inayati, "Kebijakan Sanksi Administrasi BPHTB Untuk Pemberian Hak Baru Atas Tanah di Provinsi DKI Jakarta Dalam Perspektif Collaborative Governance", Jurnal manajemen Pelayanan Publik Volume 02, No. 01, 2018, p. 38.

<sup>16</sup>Regulation of the Minister of Agrarian Affairs and Spatial Planning/Ka.BPN No.6 of 2018 article 33 paragraph 1

<sup>17</sup>*Ibid.*, article 33 paragraph 2

<sup>18</sup>*Ibid.*, article 33 paragraph 3

- a. the recipient of the right submits the original documents proving ownership; And
- b. The recipient of the right makes a Statement of BPHTB Due and/or a Statement of PPh payable, as intended in paragraph (2) and paragraph (3), which becomes the certificate of the Land Rights in question.<sup>19</sup>

It is explained that in this regulation the public is given convenience in processing the certificate making by ignoring the payment of taxes, both BPHTB and PPH taxes, so that it can shorten the time for issuing certificates. This is carried out in accordance with applicable regulations, namely DKI Jakarta Regional Regulation Number 6 of 2010 concerning General Provisions for Regional Taxes. There is one procedure that is not appropriate, namely the BPHTB Payment procedure. The difference that occurs in the payment procedure is the difference in payment time. According to the rules stated in the regional regulation above, before printing the certificate, taxpayers must first pay the BPHTB tax and validate the tax at the local UPPD. However, this is set aside by considering time efficiency so that the BPHTB that must be paid can be postponed and paid after the certificate making process is complete.

In the Regulation of the Minister of Agrarian Affairs Number 6 of 2018 concerning PTSL Article 33, it is explained that if the recipient of land rights has not been able to pay the BPHTB or still has arrears on the land PPh that the person concerned can still issue a certificate but it will be replaced by making a statement of outstanding BPHTB and/or a letter Information on the income tax payable, as intended in paragraph (2) and paragraph (3), which becomes the certificate of land rights in question. Meanwhile, in Regional Regulation Number 8 of 2010 concerning Tax on Acquisition of Land and Building Rights, the tax must first be paid before a certificate can be issued.

In the provisions regarding PPH and BPHTB payable, it is not actually explained clearly and unequivocally when the tax owed must be paid, in both regulations it is only explained that before the deed is drawn up by an official, the PPH and BPHTB taxes must have been paid and shown. This gives rise to a lack of clarity in the rules relating to PPH and BPHTB issues owed in the implementation of PTSL. In relation to PPh and BPHTB payable in the implementation of PTSL, in Darmawan's view, the tax amnesty philosophy needs to be imitated in a complete systematic land registration process by exempting land registration for the first time from taxes on land such as PPH and BPHTB, it will speed up data collection in the form of land registration and the government will get benefits in the form of certified land data which is a source of tax object imposition in the future. Darmawan further stated:

- (1) Every transfer of property/land is subject to tax;
- (2) The transfer does not have to be proven by a deed, as long as there is a transfer, it is subject to tax;

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<sup>19</sup> *Ibid.*, article 33 paragraph 5

(3) Not recognizing the tax owed. This view seems quite reasonable if seen from the latest provisions regarding Republic of Indonesia Government Regulation no. 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or buildings and binding sale and purchase agreements for land and/or buildings and their amendments.<sup>20</sup>

In this case, the tax that arises as a result of land registration is BPHTB tax and PPH actually has different rules or legal bases. The interest owners in BPHTB and PPH are also different, if in PPH the interest owner is the central government then this is different from BPHTB which is levied by the regional government, in this case the DKI Jakarta Regional Government. Due to the different interests of the regulators, the rules governing PPH and BPHTB are also different. PPH is regulated in the Government Regulation of the Republic of Indonesia Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings, and Sale and Purchase Agreements for Land and/or Buildings and their Amendments. Meanwhile, BPHTB is regulated in Law No. 28 of 2009 concerning regional taxes and regional levies.

### **3.2. Analysis of calculation and procedure for payment of land and building rights acquisition tax and income tax payable for certificates for the Complete System Land Registration program in the DKI Jakarta area**

The calculation and procedures for paying PPH and BPHTB taxes payable for the PTSL program in the DKI Jakarta area are regulated based on Republic of Indonesia Government Regulation Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings, and Sale and Purchase Agreements for Land and/or Buildings and their Amendments. Meanwhile, BPHTB is regulated in Law No. 28 of 2009 concerning regional taxes and regional levies in conjunction with DKI Jakarta Regional Regulation Number 6 of 2010 concerning General Provisions for Regional Taxes.

For PPH payments, the amount of final income tax upon transfer of rights is regulated in Article 4 paragraph (2) letter d of Law no. 6 of 2008 in conjunction with article 2 paragraph (1) Government Regulation no. 34 of 2016 states that the central government provides convenience in investing or transactions in the form of reducing the value of income tax (PPH) to 2.5% (PPH of 1% is imposed on simple houses or simple flats). This policy reduces the total cost of processing land registration to  $\pm 8.3\%$ , from previously  $\pm 10.8\%$  of the property value or transaction value. Currently, the ATR/BPN ministry continues to make changes and innovations in order to improve services.<sup>21</sup>

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<sup>20</sup>Aries dian mujiburohman, "potensi permasalahan pendaftaran tanah sistem lengkap (PTSL)", *STPN Press Bumi*, Vol. 4 No. 1, 08 May 2018, p. 89.

<sup>21</sup>Aldi Sagita Hasibuan dan Srisetyadj, "Penanggulangan Pembayaran Pajak Pph Dan Bphtb Sehubungan Dengan Pendaftaran Tanah Sistematis Lengkap Berdasarkan Peralihan Hak Jual

The Regional Government of DKI Jakarta also provides convenience in the form of free buyer tax payments for first-time home purchases and under NJOP of a maximum of IDR 2 billion. This is regulated in Gubernatorial Regulation Number 126 of 2017 which has been replaced by Gubernatorial Regulation Number 23 of 2023. Then there is also Gubernatorial Regulation Number 259 of 2015 which makes payment of land and building tax (PBB) free with the provision that the NJOP is no more than IDR 1 billion. Implementation of collection BPHTB does not always run smoothly, therefore there are several obstacles faced, namely as follows:

#### 1. Obstacles related to Taxpayers

The first obstacle, namely obstacles related to taxpayers, is more caused by the public's lack of knowledge about BPHTB taxes and the lack of awareness among the public to pay BPHTB taxes, so that taxpayers experience problems/difficulties in calculating the BPHTB that they must pay for the transfer of rights they carry out. Additionally, there is a self-assessment system where taxpayers are given the authority to calculate and pay themselves the amount of BPHTB they must pay. And tax officers also experience difficulties in collecting taxes due to a lack of public awareness, as well as delays in payments so that the payment due date has exceeded the payment limit and incurs fines. The second obstacle for taxpayers is regarding determining the amount of payment. Sometimes there are some taxpayers who have problems, namely in terms of objections to the amount of tax payments. The third obstacle for taxpayers is delays in paying taxes, resulting in fines and payments made through banks.

#### 2. Constraints related to Human Resources

The obstacle related to Human Resources is the lack of reliable human resources in the field of income. Developments in BPHTB collection receipts, the implementation of BPHTB collection has gone quite well, the obstacles faced can still be handled with appropriate solutions, and the development of revenues that has occurred has been very good. Taxpayers are obliged to pay the tax owed without relying on the existence of a Tax Assessment Letter. Basically, the system for collecting Land and Building Rights Acquisition Fees is a self-assessment where taxpayers are entrusted to calculate and pay the tax owed themselves using the Land and Building Rights Acquisition Fee Payment Letter, and report it without basing it on the issuance of a Tax Assessment Letter.<sup>22</sup>

Taxes owed are paid through Regional Owned Enterprises or other places of payment appointed by the Regional Government with a Payment Letter for Acquisition Fees for Land and Building Rights. The place of payment for Acquisition Fees for Land and Building Rights is the Regional Owned Enterprise Bank or Bank DKI or the place of payment others appointed by the Regional Government to receive payments or deposits of Land Rights Acquisition Fees from Taxpayers and transfer the balance of

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Beli", *Bureaucracy Journal: Indonesia Journal Of Law And Social-Political Governance*, Vol. 3, No. 2, 2023, p. 1151.

<sup>22</sup>Article 10 Law Number 20 of 2000 concerning BPHTB.

Land Rights Acquisition Fee receipts to the regional government's Operational Bank. The mechanism for paying off the outstanding BPHTB can be explained as follows. The seller and buyer who have agreed on the sale and purchase price of the house, go to the Notary/PPAT to make a sale and purchase deed. In general, sellers and buyers do not understand the BPHTB rules, so they come to the Notary/PPAT without bringing the BPHTB SSB. As a result, the Notary/PPAT was unwilling to sign the sale and purchase deed.

The actions of the Notary/PPAT are in accordance with Article 12 paragraph (1) of Regional Regulation Number 18 of 2010 concerning BPHTB which determines that the Land Deed Making Officer/Notary can only sign a deed of transfer of rights to land and/or buildings when the Taxpayer submits proof of tax payment in the form of a Payment Letter. Fees for Acquisition of Land Rights.<sup>23</sup>The application of administrative sanctions for taxpayers who are late in paying taxes at the tax service office applies the philosophy of rehabilitation, which seeks to reintegrate taxpayers into society through correction and service programs. Law enforcement in the field of taxation is an action taken by relevant officials to ensure that Taxpayers and prospective Taxpayers comply with the provisions of tax law, such as submitting SSPD, bookkeeping and other relevant information and paying taxes on time. Means of law enforcement may include sanctions for failure to submit SSPD, interest charged for late payments and criminal charges in the event of tax smuggling.

Because Land and Building Tax or BPHTB tax is handed over to the Regional Government, it is felt necessary to determine payment places that are easier and closer so that the DKI Jakarta Regional Government can immediately utilize the tax revenue to finance development in its respective regions. The administrative sanctions given in the form of interest of 2% a month are imposed on taxpayers who are late in paying the tax owed by both PBB and BPHTB in the PTSL Program. Meanwhile, administrative sanctions in the form of increases (tax increases or additional taxes) are imposed for violations of the provisions of tax laws, where as a result of the violation the state suffers losses.

The legal consequence of not fulfilling the tax owed in the PTSL program according to Law Number 28 of 2009 is a maximum fine within 2 years, meaning the maximum fine that can be imposed is 48% because when people complete the PTSL process in making a certificate, the BPHTB must be paid, mostly People delay paying the BPHTB so that it accumulates so that one day when the community sells or inherits it incurs unpaid bills.<sup>24</sup> The overall provisions regarding BPHTB currently only refer to Law Number 28 of 2009. However, in fact, in general, the regulation of objects, subjects, calculation procedures and the basis for imposition of BPHTB tax in Law no. 28 of 2009

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<sup>23</sup>Article 12 paragraph 1 Regional Regulation number 18 of 2010 concerning BPHTB

<sup>24</sup>Hartoyo, Harry dan Untung Supardi, 2010, Membedah Pengelolaan Administrasi PBB & BPHTB, Mitra Wacana Media, Jakarta, p. 214.

is the same as the BPHTB tax regulations regulated in Law Number 21 of 1997 concerning BPHTB as amended by Law Number 20 of 2000.<sup>25</sup>

The DKI Regional Government itself does not have specific regulations governing PTSL, however the DKI Jakarta Regional Government has Governor Regulation 103 of 2011 concerning granting reductions, relief and exemption from BPHTB. In the land program or Prona (National Program) in the special land sector.<sup>26</sup>

#### **4. CONCLUSION**

Implementation of Tax Payable in the complete system land registration program before the Minister of ATR/Ka.BPN Regulation No.6 of 2018 comes into force using the Minister of ATR/ka's regulation. BPN No.12 of 2017 concerning acceleration of complete system land registration. Regulation of the Minister of ATR/Ka. BPN No.6 of 2018 concerning PTSL violates the rules stated in Law No. 28 of 2009 concerning Regional Taxes and Regional Levies. This is because the government feels there is a need for a breakthrough to speed up land registration so that all land in Indonesia can be registered so that it can provide benefits to the community and the central and regional governments. The absence of PTSL tax payment procedures regulated in special regulations means that the government, in this case the UPPRD and KPP officers, use rules that existed before the enactment of this PTSL Ministerial Regulation. However, with the consequence of not fulfilling the Tax payable according to Law No.28 of 2009 concerning Regional Taxes. The legal consequence is that the tax owed under the PTSL program according to Law Number 28 of 2009 is not fulfilled within 2 years, meaning a 48% fine can be charged to the taxpayer. Due to not completing tax payment obligations in the PTSL program. Because to settle obligations arising from the PTSL certificate, BPHTB must be paid first. So that people who delay in paying BPHTB accumulate so that one day when the community sells or inherits they are subject to unpaid bills. Because of this, the people who suffer the most are the people who are less aware of their PTSL tax payment obligations.

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<sup>25</sup>Ibid.

<sup>26</sup>Ibid.

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