

PalArch's Journal of Archaeology of Egypt / Egyptology

ROYALTY INCOME TAX ON THE BOOK AUTHOR “TERE LIYE”

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**Amroh, Agung Sujatmiko. Royalty Income Tax On The Book Author “Tere Liye”--
Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(4), 2253-2258. ISSN 1567-
214x**

Keywords: Property Rights, Letter C, Complete Systematic Land Registration.

ABSTRACT

Freehold land marked with the Letter C Register can be transferred from its owner to another party through inheritance or sale and purchase. Landowners with Letter C Register have the right and authority to sell their property to another party. In other words, a person can obtain his ownership as long as there is a Letter C Register. This study applied normative legal research using statute approach and conceptual approach. The purpose of this study is to analyze the proof of sale and purchase of Freehold land which is marked with Letter C Register made by Title Registrar and to analyze land systematic registration. The results of this study indicate that the sale and purchase of freehold land with Letter C Register before the ratification of Government Regulation No. 24 of 1997 was not made by the Head of the Village, but by the Sale and Purchase Agreement and Power of Attorney for property selling made by a notary. The sale and purchase of freehold land with Letter C Register before the ratification of Government Regulation No. 24 of 1997 and the purchaser who intends to certify the Freehold land to the City Land Office are not required to be proven by a deed made by the Title Registrar.

INTRODUCTION

Indonesia is a legal state founded on Pancasila and the 1945 Constitution by upholding the rights and obligations of citizens. One of the obligations of the citizens is to pay taxes regularly as specified in the 1945 Constitution in article 23A which reads: “All taxes and other levies for the needs of the state of a

compulsory nature shall be regulated by law.” (Pohan, 2014). This provides legal guarantees to taxpayers so that justice can be enforced and at the same time places tax obligations as one of the state obligations in which the public participates in implementing state financing and state development.

Tax is a compulsory financial charge imposed on people for state for the funding of government and public expenditures. According to Law Number 28 Year 2007 on The Third Amendment of The Law Number 6 Year 1983 on General Provision and Taxation Procedure, Article 1 Section (1) states tax as payable mandatory contribution to the state of the individual or entity, which is coercive under the Law, without any direct return and shall be utilized for the need of the state for the greatest prosperity of the people.

The taxation system in Indonesia adopts a self-assessment system, which is the taxpayer self-calculates his/her own tax, deducts or collects the payable tax that must, pays the obligated amount of tax, and reports the amount of tax his/herself. This system requires self-awareness, honesty, discipline, and willingness of taxpayers. This system can work well if taxpayers have good tax knowledge and have a high sense of tax consciousness (Santoso, 2003).

Tax paid by taxpayer must be clear and not arbitrary yang dibayarkan oleh Wajib Pajak harus jelas dan tidak mengenal kompromi (not arbitrary). In this principle, legal certainty must be prioritized, namely tax subjects, tax objects, tax rates, and provisions regarding payment. Tax collection must be done as economically and efficiently as possible, ensuring the tax collection is not greater than tax revenue itself, because tax collection will be meaningless if the costs incurred are larger than the tax revenue (Suandi, 2014).

Income Tax (pph) is a tax that imposed on an individual or entity over the income received within a tax year. Income is any additional economic capability originating from both Indonesia and outside Indonesia that can be used for consumption or to increase wealth by name and in any form. This exemplifies that income can be in the form of business profits, salaries, honorariums, gifts, and etc (Sutedi, 2011).

One kind of income that is categorized as income tax object is book author because the source of income of the author is the revenue from his business and activities in writing a book, which is then published by the publisher, and then printed the book is distributed to book stores in Indonesia.

One of renowned Indonesian book author is Tere Liye. One day he criticized injustice in a tax collection on the writer's profession. As a result, the book author "Tere Liye" had to cut off cooperation with two publishers, Gramedia Pustaka Utama and Republika Publisher, as of July 31 2017 because the tax collection for books was too high. For example, if the income of an author referred to as royalty reaches IDR 1 billion, an approximate IDR 245 million or 24.5 percent needs to be paid as tax. The amount of the cost is obtained from

the calculation that the first IDR 50 million is subject to a tariff of 5 percent, and the next IDR 50-250 million is subject to 15 percent tax, IDR 250-500 million is subject to a tariff of 25 percent, and then IDR 500 million to IDR 1 billion is taxed at 30%. Summing it up, the total tax reaches up to Rp 245 million. The injustice of this high taxation makes the author Tere Liye no longer reprints his book (kompasmania, 2018).

The objective of this study is to find out the legal remedies that can be done by the taxpayer, author Tere Liye against the tax collection government or the Directorate General of Tax of the Ministry of Finance (DGT Ministry of Finance). It is also to examine the mechanism of application of the rules and collection of income tax in the community, especially the one imposed on the author Tere Liye (kompasmania, 2018).

The results of this study are expected to give benefits to community. In practical context, the results of this study are expected to be beneficial to the taxpayer community, especially the book authors in Indonesia and the practitioners in the field of taxation in carrying out tax obligation relating to the royalty income tax against Tere Liye. Moreover, it is expected to provide a brief description of the efforts made by the book author Tere Liye to reduce the amount of the royalty income tax paid to the government (kompasmania, 2018).

RESEARCH METHOD

This study employed normative juridical method. The method is a method that brings closed a problem to normative law. The approaches used in this study were statute approach, conceptual approach, and case approach. The statute approach is an approach in drafting a law that is carried out by examining all the laws and regulations concerned with the legal issues being handled. The second approach is conceptual approach, which is an approach stemming from the growing views and doctrines in legal science. The third approach is the case approach, which is carried out by conducting a case review related to the issue of royalty income tax injustice to the author Tere Liye, resulting in the termination of contract with two book publishers, Gramedia Pustaka Utama and Republika Publisher, on 31 July 2017 (Marzuki, 2010).

Mechanism of Regulation Enforcement and Tax Collection to Book Author Tere Liye

The Income Tax Law in Indonesia has undergone amendment four times. This amendment started from the enactment of the first Income Tax Law, namely Law No. 7 of 1983 concerning Income Tax. Amendment in the Income Tax Law were made because the government considered that the tax regulations applicable in 1983 were a legacy of the Dutch colonial era and were not in accordance with the developments of taxation problem.

The Income Tax Law regulates the imposition of income tax on tax subjects with respect to income received or obtained in the tax year. The tax subject is subject to tax when receiving income, and in the Income Tax Act, is called

taxpayer. Taxpayer is taxed on the income received during one tax year or can also be taxed for income in the taxable portion if their subjective tax obligation begins or ends in a tax year (Mardiasmo, 2011).

According to the provisions of the subject of income tax and the requirements to become a book author in Indonesia, it can be concluded that a book author is subject to income tax. The book author Tere Liye is an income tax subject in this case, an individual who will be subject to income tax for the income received through the collaboration with book publishers. The author Tere Liye can become a taxpayer if he fulfills subjective and objective requirements so that he is subject to income tax.

Taxpayer, according to Article 1 Section (2) Law Number 28 Year 2007 on The Third Amendment of Law Number 6 Year 1983 on General Provision and Taxation Procedure, is defined as the individual or entity, including the taxpayers, tax withholders, and tax collector, who has the right and obligation of taxation in accordance with the provision of the taxation legislation. In other word, every taxpayer is a tax subject, but it is not the other way around.

As a book author, Tere Liye must meet both subjective and objective requirements in accordance with the provisions of tax legislation based on the self- assessment system in Indonesia to become a taxpayer who has the obligation to pay tax of the income he receives. Based on the stipulation in Article 2 Section (1) of Law Number 28 Year 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, subjective requirement is the requirement that is in accordance with the provisions regarding tax subjects in The 1984 Income Tax Act and its amendments, while objective requirement is the requirement for tax subject who receives income or is required to withhold or collect according to the provisions of the 1984 Income Tax Act and Amendments. Therefore, the subjective and objective requirements must be met by Tere Liye in order to become a taxpayer. Based on the provisions on resident and non-resident taxpayers, the book author Tere Liye as an individual is classified as resident taxpayer. An individual in this case is the person who resides in Indonesia or has been present in Indonesia for more than 183 (one hundred eighty three) days within a period of 1 (one) year or any 12 (twelve) months or intends to reside in Indonesia within a particular taxable year. The author Tere Liye has an obligation as an individual resident taxpayer when receiving income (Suandi, 2014).

Legal Remedy of Taxpayer of Author Against Tax Collection

According to Law No. 39/1999 concerning Indonesian Human Rights, protection is a defense of human rights. Because every human being has the same rights and obligations, every human being also has the same right to protection (Prakoso and Setyaningati, 2018). Legal protection in the tax law is an absolute existence in the law-based state as the implementation of tax law enforcement, considering that tax law enforcement must not neglect the taxpayer's legal protection. Thus, tax law enforcement can be implemented simultaneously with the legal protection of taxpayers so as to raise legal

awareness for taxpayers to pay tax. Legal protection of taxpayer is a legal consequence owned by Indonesia as a state of law, for the state is obliged to protect all people of Indonesia, including taxpayers (Jayaputra, 2008).

In tax law, legal remedies that can assist taxpayers in dispute are Litigation and Non-Litigation Legal Remedies. Litigation is an effort to resolve disputes through judicial bodies. In this case, there is a dispute between the taxpayer and the authorized official. The Taxpayer can propose the objection to the Director General of Tax, then submit an appeal to the Tax Court and file an extraordinary legal remedy in the form judicial review to the Supreme Court (Nn, 2013). In contrast, non-litigation is a form of dispute resolution outside the judicial process. This non-litigation path is known as Alternative Dispute Resolution. The explanation of dispute resolutions outside the judicial process is specified in Law Number 48 Year 2009 on The Powers of The Judiciary as follows "Dispute resolutions outside court on the basis of peace or through arbitrator is allowed." Similar provision is also stipulated in Law Number 30 Year 1999 on Arbitration and Alternative Dispute Resolutions Article 1 section 10 that says "Alternative dispute resolution means a mechanism for the resolution of disputes or differences of opinion through procedures agreed by the parties, i.e. resolutions outside the courts by consultation, negotiation, mediation, or expert assessment."

Non-litigation efforts have several forms to resolve disputes including negotiation, mediation, and arbitration. These three forms of dispute resolution are carried out by parties who feel disadvantaged or if there is a difference in opinions between individuals, groups or between business entities. Dispute resolution through non-litigation is carried out to resolve disputes by consensus and discussion. Non-litigation dispute resolution is an attempt to bargain or compromise with the aim to obtain a mutually beneficial solution. The presence of a third party as a neutral party is not to resolve the dispute, and instead, the parties themselves make the decision.

Preventive legal protection effort can be taken by taxpayer, the author Tere Liye in Indonesia, feel objected to tax collection in Indonesia. Taxpayer could propose the objection just only to Director General of Tax as stipulated in Article 25 Section (1) Law Number 6 Year 1983 on General Provisions and Tax Procedure that has been amended lastly with Law Number 16 Year 2009 upon a : a). Underpaid Tax Assessment; b). Additional Underpaid Tax Assessment; c). Nil Tax Assessment; d). Overpaid Tax Assessment; and e). Tax withholding or tax collection by the third party pursuant to the provision of the taxation legislation.

CONCLUSION

Tax collection must be based on the laws. Article 23 Section (2) of the 1945 Constitution also stipulates the same matter that all taxes for the needs of the state must be regulated by law. Income tax collection on royalties has fulfilled legal certainty, and this is based on Article 23 Section (1) of the Income Tax Law; one of which regulates the collection of income tax on royalties received

by resident taxpayer. With this basis, the collection of income tax on the author's book royalties is lawful. There are two legal remedies for taxpayers who are in dispute, namely litigation and non-litigation. Non-litigation is a form of dispute resolution outside the judicial process, including negotiation, mediation, and arbitration.

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