



Mechanism for reducing and abolishing land and building tax administrative sanctions in Karanganyar district

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Abstract

This study aims to describe the mechanism for reducing and eliminating administrative sanctions for land and building taxes, especially in Karanganyar Regency. This research is a normative legal research. Based on the research results, it is known that the Mechanism of Reduction or Elimination of Administrative Sanctions is divided into two, a. The mechanism for the reduction or elimination of administrative sanctions on taxpayer applications can be carried out in ways that are regulated in the Karanganyar Regent Regulation 67/2018, namely: 1. Taxpayers filing an application for reduction or abolition of tax administrative sanctions can only be submitted by the taxpayer or his proxy individually, where the application is submitted in writing to the Regent through the Head of the Agency, signed by the Taxpayer or his proxy in Indonesian, stating the reasons supporting the application, by attaching the following requirements: a) photocopy of the applicant's identity and proxies; b) photocopy of the decision letter submitted for the application; c) stamped power of attorney if authorized; and d) supporting documents that can show that the Administrative Sanctions are imposed because of the Taxpayer's mistake or not because of the Taxpayer's fault. 2. The Head of the Agency within 3 (three) months after the application is declared complete, is obliged to make a decision on the application of a Taxpayer or a Taxpayer's Proxy. If the period as referred to in paragraph (4) has elapsed and the decision has not been issued, then the application for deduction is deemed granted and a decision is issued in accordance with the Taxpayer's application within a period of no later than 1 (one) month as of the end of the said period while continuing to carry out activities. research and put it in the Research Results Report. Then, in this case what is meant by the reduction and elimination of administrative sanctions in office is carried out by issuing a Regent's Decree. As for this matter is limited by certain considerations, among others: a. Regional interests b. stimulus to Taxpayers to increase awareness of Taxpayers in terms of payment administrative order; and / or c. humanitarian social interests.

Keywords: administrative sanctions, land and building tax, discretion

Introduction

Indonesia is a state of law (*rechtsstaat*), which means that Indonesia upholds the law and the rule of law. This is a consequence of the rule of law teaching that the highest power does not lie in the personal will of the ruler, but in the law. However, every modern state today has a lot of interference from the state rulers into the daily life of society. All kinds of interference from the state authorities are given a legal form so that things do not get confused and do not cause doubts to all parties concerned, and when a conflict arises, the resolution is easier. So between the authorities and the community must be based on law.

As it is known that the law aims to realize justice, benefit or legal certainty, not only in the form of written legal rules, but must be reflected in its implementation. Likewise, the tax law held by the state as a positive law which also contains goals in the form of justice, expediency, legal certainty, and legal protection. The four objectives of tax law are not just written or as a written rule of law in tax law, it must be visible in its application so that tax law is a functional law that serves the State as a rule of law by placing the objectives of justice, benefit, legal certainty, and legal protection for taxpayers and tax officials. Legal certainty as the goal of tax law can be applied in terms of tax collection and in the settlement of tax disputes. This is

related to the fact that tax collection may not be carried out by anyone except what has been determined, including the form and period that must be fulfilled in order to be classified as legal tax collection. Likewise, in the settlement of tax disputes, there is a tax court that has the authority to examine and decide on tax disputes. Meanwhile, mandatory legal protection is reflected to taxpayers and tax officials when tax law is implemented and enforced.

Taxes are the most important source of state revenue. We can see this in the State Revenue and Expenditure Budget. The structure of the State Revenue and Expenditure Budget shows that the sources of revenue consist of various types of taxes, import duties, export duties and excise. Tax revenue is increasing from year to year. To increase state revenue from the tax sector, it is necessary to expand taxpayers, improve tax rates and improve tax collection administration. Tax law as part of the science of law has a scope of effect and the material it contains. National tax law is tax law established by a State and is applicable in the territory of the country that determines it. In the national tax law, there is a regional tax law which is determined by a certain region within the territory of the country and applies only to the region concerned.

Central taxes submitted to the regions are rural and urban land and building taxes as well as fees for the acquisition of

land and building rights. The submission of these two types of taxes is based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies (hereinafter referred to as the PDRD Law). Regency/city regional taxes as the authority of regencies/municipalities to be stipulated in the form of regional regulations are hotel tax, restaurant tax, entertainment tax, advertisement tax, street lighting tax, non-metallic mineral and rock tax, parking tax, groundwater tax, bird's nest tax, land and building tax in rural and urban areas, and fees for the acquisition of land and building rights. The classification of regional taxes is final, the PDRD Law which adheres to the closed principle means that regions are prohibited from collecting taxes. The classification of regional taxes is final, the PDRD Law which adheres to the closed principle means that regions are prohibited from collecting taxes other than the types of regional taxes mentioned above. When the region seeks local taxes that are not recognized in the PDRD Law in the form of regional regulations, it means that it is an illegal legal act. The legal consequence that arises is that the regional regulation on regional taxes is null and void, meaning that from the beginning the act never existed.

As it is known, various breakthroughs, especially in the field of law, have been rolled out with the main objective of creating a novelty. Furthermore, various policies have been formulated with outputs in the form of sublimation and optimization of the role of the state, especially when Indonesia enters the reform era. Postulated on a series of community demands for democratization has moved the point of the continuum from an authoritarian style of government to the point of a continuum of democratic style. The spirit of reform that was formed in 1998 has provided a very broad paradigm shift, one of which is the division of the role of the state. Furthermore, new state agendas are compiled and formulated in such a way with the main objective of a paradigm shift towards the power held by the government which in the previous period was still dominated by the fields of defense, public order and criminal law. This condition has expanded in line with the conception of a modern state that is currently being adopted by Indonesia.

One of the sectors that has also experienced a renewal is the area of regional government with the idea commonly known today as regional autonomy -based on the principle of decentralization-. If the historical flashback exists, state policy reconstructs the paradigm and system of government through the decentralization model, which is actually a means of structuring the relationship between the Central and Regional Governments in a more democratic direction by increasing the portion of decentralization - through granting authority to regions - to manage government. With the change in the government system, automatically various supporting institutions of the system that have been centralized have also changed. The paradigm shift and change was then adjusted to the socio-political constellation that was developing at that time, where the characteristics of the central government regime also influenced the central view of the regions. These various perspectives were then combined into a regulatory framework in the regional sector, starting from the issuance of -since the reform era - Law Number 22 of 1999 - which then underwent several changes and changes - to Law Number 9 of 2015 which was in effect when this.

Based on the juridical provisions - as well as the theoretical

elaboration - the above has a linear implication with the regional discretion to administer the government which includes authority in all fields - except the authority in the fields of foreign policy, defense and security, judiciary, monetary and fiscal, religion and other fields of authority - at the same time interpreted also includes complete and unanimous authority in the administration of government activities ranging from planning, implementation, supervision, control and evaluation.

In line with the explanation above, the sources of regional income actually become a fundamental instrument to support development in the region which basically requires funding sources that are not small in number to ensure the continuity of the development of the region concerned. In order to implement real, broad and responsible regional autonomy while at the same time increasing the ability to plan, organize and mobilize development, each region needs the authority and ability to explore the resources available in their respective regions. The logical consequence is the granting of power to the regions in obtaining funding in the implementation of regional autonomy, as a manifestation of the principle of decentralization in order to increase the local revenue which is expected to experience sublimation from year to year. For this reason, it is necessary to extract sufficient sources of regional funds to support the successful implementation of development and autonomy.

One of the aspects that become a source of local revenue is the tax sector. As the author explained earlier, it is known that taxes are one of the sources of financing for national development in the context of improving people's welfare. Taxes are used to finance general expenses related to the task of the state to organize the government. Furthermore, with regard to the areas of tax and regional governance, a new momentum was present for the Regional Government when the PDRD Law was legally enforced. Particularly for Regency / City Governments, through this Law District / City Regional Governments have been delegated authority by the Central Government in the management of Rural and Urban Land and Building Tax (PBB-P2). This delegation of authority is aimed at: (1) increasing accountability for the administration of regional autonomy; (2) expansion of the regional tax base; (3) granting authority in determining tax rates; (4) increasing local revenue (PAD) as an instrument for budgeting to implement regional policies. With this delegation, all process activities from data collection, assessment, determination, administration, collection / collection to PBB-P2 services are carried out by the Regency / City Government.

On the basis of the explanation above, specifically regarding the management of Rural and Urban Land and Building Tax (PBB-P2) in tolerance to the land area owned by each region, PBB-P2 has great potential as one of the contributors to PAD in a certain area. Karanganyar Regency as one of the regions in Central Java Province stipulates regulations regarding rural and urban land and building taxes through the provisions of Karanganyar Regency Regional Regulation Number 3 of 2012 concerning Rural Land and Building Taxes (hereinafter referred to as Perda 03/2012), based on the regional regulation an object before being taxed, the tax must be reduced first with the Non-Taxable Selling Value of Rp. 10,000,000., 00. Where if this is not fulfilled or paid there are administrative sanctions waiting. But apart from this there are things that provoke a sense of curiosity, which in 2018 through the Karanganyar

Regent Regulation Number 67 of 2018 concerning Reduction or Abolition of Administrative Sanctions and Reductions, or Cancellation of Land and Building Tax Assessment in Rural and Urban Areas (hereinafter referred to as Perbu 67 / 2018). Through the Perbup, a person or legal entity that has land and building tax arrears can obtain a reduction and abolition of administrative sanctions as stipulated in Regional Regulation 03/2012.

This is certainly inversely proportional to the data obtained where in 2018 the number of tax returns (SPPT) issued by the Regional Revenue Service of Karanganyar Regency was 165,694 (one hundred sixty five thousand six hundred and ninety four) but the SPPT was paid in the same year. the same is only 11,7310 (one hundred seventeen thousand one hundred and ten) and the number of SPPT in arrears is 48,384 (forty eight thousand three hundred and eighty four). In 2019 the Tax Returns Payable issued by the Regional Revenue Service of Karanganyar Regency were 166,933 (one hundred sixty six thousand nine hundred and thirty three) but the SPPT which was paid off in the same year was only 107,596 (one hundred seven thousand five hundred ninety six) and the total The SPPT in arrears is 59,337 (fifty-nine thousand three hundred and thirty-seven). So we can conclude that in 2018 and 2019 there are still many taxpayers who do not pay their tax objects on time. Referring to the provisions contained in Article 11 paragraph (4) and Article 12 of Law Number 12 of 1985 concerning Land and Building Tax as amended by Law Number 12 of 1994, the Minister of Finance has issued Regulation of the Minister of Finance (PMK) Number: 78 / PMK.03 / 2016 concerning Procedures for Issuance of Land and Building Tax Collection Letters. In the PMK, it is stated that the Director General of Taxes (DJP) issues Land and Building Tax (PBB) Tax Bill (STP) in the event that there is PBB owed in the Tax Returns Payable (SPPT) or PBB Tax Assessment (SKP) that is not or less. paid after the due date of payment. Article 3 paragraphs (1) and (2) "STP PBB contains PBB or unpaid or underpaid plus an administrative fine of 2% (two percent) per month from PBB which is not or underpaid," the administrative fine as referred to, according to This PMK is calculated from the time of maturity to the date of payment for a maximum period of 24 (twenty four) months from the part of the month which is fully calculated for 1 (one) month.

Although normatively the government has issued legal provisions for taxpayers who do not fulfill their obligations or are late in fulfilling their obligations, in reality there are still many taxpayers who do not or are late paying land and building taxes on time. In the context of Karanganyar Regency, Central Java Province, the regulation regarding the reduction and elimination of administrative fines is regulated in Karanganyar Regent Regulation Number 67 of 2018 concerning Reduction or Elimination of Sanctions Administrative and Reduction, or Cancellation of Rural and Urban Land and Building Tax Assessment (hereinafter referred to as Perbup 67/2018). Through this Perbup, a person or legal entity who has land and building tax arrears can get a reduction and elimination of administrative sanctions, then the problem raised in this article is how the mechanism for the Reduction and Elimination of Administrative Sanctions on Land and Building Tax in Karanganyar Regency based on the provisions of Perbup 67/2018.

Research Methods

The type of research in this research is normative juridical, namely the process of finding a rule of law, legal principles, and legal doctrines in order to answer the legal issues faced. With regard to the normative legal research method, the technique of collecting legal materials used is document study or literature study. The approach used in this research is a statutory approach (status approach) and a conceptual approach (case approach).

Discussion

The use of administrative sanctions is the application of government authority, where this authority comes from written and unwritten State Administrative Law rules. Administrative sanctions are sanctions that arise from the relationship between the government and citizens and are carried out without third party intermediaries, namely without the intermediary of judicial power, but can be directly implemented by the administration itself. In general, giving the government the authority to establish certain State Administrative Law norms, along with giving the authority to enforce these norms through the application of sanctions for those who violate the norms of the State Administrative Law. When a citizen neglects the obligations that arise in administrative legal relations, the opposing party (i.e. the government) can impose sanctions without the intermediary of a judge.

Fines can be regarded as negative punishments for people who violate regulations by paying money. The laws and regulations in outline contain rights and obligations, actions that are allowed and not permitted by the community. In order for these laws and regulations to be complied with, there must be sanctions for violators, as well as for tax laws. Meanwhile, law enforcement will always involve humans and involve human behavior as well. The law cannot be enforced by itself, meaning that it is unable to realize promises to give rights to someone on its own, imposes penalties on someone who meets certain requirements and the wishes stated in these regulations or laws. The means of enforcing the State Administrative Law contain: (1) supervision that government organs can comply with or based on laws stipulated in writing and supervision of decisions that place obligations on individuals, and (2) the application of government sanctions authority.

What Nicolai said is in line with ten Berge, as quoted by Philipus M. Hadjon, who stated that the instrument for enforcing State Administration Law includes supervision and enforcement of sanctions. Supervision is a preventive step to enforce compliance, while the application of sanctions is a repressive step to enforce compliance. It has been mentioned that the means of law enforcement in addition to supervision are sanctions. Sanctions are an important part of every statutory regulation, even J.B.J.M. ten Berge, as quoted by Philipus M. Hadjon, states that sanctions are the essence of enforcement of State Administrative Law. Sanctions are usually placed at the end of each rule; in *cauda venenum* (literally means there is poison at the end), which means that at the end of the rule of law there are sanctions. Sanctions are needed to ensure the enforcement of the State Administrative Law. According to Philipus M. Hadjon, in general it is useless to include obligations and prohibitions for citizens in state administrative laws and regulations, when the rules of conduct cannot be enforced by the state administration. One

of the instruments to enforce the behavior of these citizens is sanctions. Therefore, sanctions are often an inherent part of certain legal norms.

In State Administrative Law, the use of administrative sanctions is the application of government authority, where this authority comes from the written and unwritten rules of State Administrative Law. In general, giving the government the authority to determine certain norms of State Administrative Law, is accompanied by giving the authority to enforce those norms through the application of sanctions for those who violate the norms of the State Administrative Law. Law enforcement is not an activity that stands alone, but has a reciprocal relationship that is closely related to the structure of the community behind it. Law enforcement in a society has its own tendencies which are caused by the structure of the society. The structure of society is an obstacle, either in the form of providing social facilities that enable law enforcement to be carried out, or creating obstacles that make it unworkable or inadequate to carry out carefully.

This happened in the enforcement of administrative sanctions against the payment of land and building taxes which led to the reduction and elimination of administrative sanctions for land and building taxes in Karanganyar Regency, Central Java, Indonesia. But that is not what the author will describe, in this article the author describes how the mechanism for reducing and eliminating administrative sanctions for land and building tax in Karanganyar Regency, as contained in Article 2 of Karanganyar Regency Regent Regulation 67/2018, which states that, The Regent due to his position or at the request of the Taxpayer can:

1. reduce or eliminate tax administrative sanctions in the form of interest, fines and tax increases;
2. deduct, correct, or cancel incorrect SPPT, SKPD, SKPDKB, SKPDKBT or STPD, SKPDN or SKPDLB Tax;
3. cancel the results of the audit or tax assessment which was carried out or issued not in accordance with the prescribed procedure; and
4. reduce the tax payable assessment based on the ability to pay the taxpayer or certain conditions of the tax object.

The mechanism for reducing and eliminating tax administrative sanctions itself is divided into 2 (two) as follows:

Mechanism of Reduction or Elimination of Administrative Sanctions on Taxpayer Applications

In this case, the reduction and elimination of administrative sanctions can be carried out with the initial condition that there is a taxpayer's mistake or not because of the taxpayer's fault. This can be seen in Article 4 Paragraph (1) of Karanganyar Regent Regulation 67/2018, the meaning of the error itself is limited in Article 4 Paragraph (2), because:

a. the Taxpayer does not receive the Tax SPPT; or b. there are typographical errors, calculations, payment errors, system errors, and / or errors in the determination of the SPPT (Tax Payable Tax Return), while the granting of administrative sanctions reduction or elimination can be given to individual taxpayers or legal entities.

In general, the mechanism for reducing or eliminating administrative sanctions on the taxpayer's application can be carried out in ways that have been regulated in the

Karanganyar Regency Regent Regulation 67/2018, namely:

- a. Taxpayers filing an application for reduction or abolition of Tax Administrative Sanctions can only be submitted by the Taxpayer or their proxies individually, where the application is submitted in writing to the Regent through the Head of the Agency, signed by the Taxpayer or his proxies in Indonesian by stating the reasons supporting the application, with attach the following requirements: 1. photocopy of the identity of the applicant and his proxies; 2. photocopy of the decision letter submitted for the application; 3. Stamped power of attorney if authorized; and 4. supporting documents that can show that the Administrative Sanctions are imposed due to the taxpayer's negligence or not because of the taxpayer's fault.
- b. The Taxpayer's application or its proxies who have fulfilled the requirements as referred to in Article 7 paragraph (1) and paragraph (2), will then be carried out administrative research or field research if required by the Head of the Agency and set forth in the Research Result Report.
- c. (2) Based on the Research Result Report as referred to in paragraph (1), followed up by issuing a Decree of the Head of the Agency, the Decree as referred to in paragraph (2), can be in the form of fully accepting, rejecting or partial acceptance.
- d. The Head of the Agency within a period of 3 (three) months after the application is declared complete, must give a decision on the application of the Taxpayer or the Taxpayer's Proxy. If the period as referred to in paragraph (4) has elapsed and the decision has not been issued, then the application for deduction is deemed granted and a decision is issued in accordance with the Taxpayer's application within a period of no later than 1 (one) month as of the end of the said period while continuing to carry out activities. research and put it in the Research Results Report.
- e. Tax SPPT, Tax SKPD, Tax SKPDKB, Tax SKPDKBT, or Tax STPD for which an application for reduction or elimination of Administrative Sanctions is filed with the following provisions: 1. no objection is filed; 2. an objection is filed but it cannot be considered; and 3. not being filed for cancellation of an incorrect Tax assessment.
- f. However, if the application for reduction or elimination of Administrative Sanctions that do not meet the provisions as referred to in Article 7 paragraph (1) and paragraph (2) is considered not a letter of application so it cannot be considered.
- g. In the event that the application for reduction or elimination of Administrative Sanctions does not meet the provisions as referred to in Article 7 paragraph (1) and paragraph (2), the Head of the Agency within a maximum period of 15 (fifteen) working days from the date of receipt of the application for the reduction or elimination of Administrative Sanctions must notify the Taxpayer or his proxy in writing along with the underlying reasons

Reduction or Elimination of Administrative Sanctions on Position

Administrative Law (HAN) is the most classic legal instrument for the implementation of good governance. The implementation of government is more real in the HAN,

because here will be seen a concrete relationship between the government and the community, the quality of the relationship between the government and the community can at least be used as a measure of whether governance is good or not. On the one hand HAN can be used as a juridical instrument by the government in order to regulate, serve and protect the community, on the other hand HAN contains normative rules about how government is run, or as Sjachran Basah said, that one of the essence of HAN is to enable administration the state performs its functions, and protects the state administration from committing wrongdoing according to the law.

On the other hand, in managing the state, it is necessary to remember that state administrators are not only obliged to be good and clean in carrying out their duties to manage the state, but more than that they are obliged to fulfill the achievement of a just and prosperous society. Good and clean government is not an end, but a means to an end. That is, a clean government will not be worth anything if this goal is not achieved. Thus, the juridical and political mechanisms above must be made in such a way that it is truly capable of encouraging the achievement of goals and not hindering the achievement of goals. One of the state's most important tools to achieve this goal is the bureaucracy. For this reason, the bureaucracy needs to be built in such a way that it becomes good and is able to accelerate the achievement of goals. Clean government is synonymous with good bureaucracy. But in building a clean bureaucracy with a juridical mechanism, one of the leading legal issues is the intersection of the legality principle which prioritizes legal certainty (*wetmatigheid*) and discretion (*pouvoir discretionnaire*) state officials (executives) who put aside the principle of legality and prioritize efficiency (*doelmatigheid*).

Currently, the juridical mechanism is so dominant in the context of bureaucratic reform which is marked by the formalization of the General Principles of Good Governance, which was originally a code of ethics into legislation. This can be seen by the formation of several regulations in this field, such as the Public Service Law, and the drafting of the Bill on Government Administration. However, care needs to be taken so that this regulation does not have an impact on the criminalization of administrative acts committed by administrative officials (bureaucrats). One of the things that causes it is the increasingly eroded discretionary space as a result of the strengthening distrust of the code of live besides written laws and regulations.

However, it needs to be remembered that discretion arises because of the existence of the goal of state life that must be achieved, the purpose of a state from the concept of a welfare state is to create people's welfare. It is undeniable that the Indonesian state is also a form of a modern welfare state which is reflected in the preamble to the 1945 Constitution. In the fourth paragraph of the preamble to the 1945 Constitution, the objectives of the state are clearly described. This causes the government to have an active role in interfering with the socio-economic life of the community (public service) which results in the state administration not refusing to make decisions or acting on the pretext of the absence of laws and regulations (*rechtsvacuum*). Therefore, for freedom of movement, it is given to the state administration (government) a freedom of action which is often called *freies ermesen* as long as there is no abuse of authority (*detournement de povoir*). In this case what is

meant by reduction and elimination of administrative sanctions in an office is carried out by issuing a Regent Decree. As for this matter is limited by certain considerations, among others: a. Regional interests b. stimulus to Taxpayers to increase awareness of Taxpayers in terms of payment administrative order; and / or c. human social interests. This concept is actually in administrative law with the term discretion, but what is noted is that there must be further elaboration of regional interests and social and humanitarian interests, so that in the future it does not become a gray area that ends in abuse of authority.

Conclusion

Mechanisms for Reduction or Elimination of Administrative Sanctions on Taxpayer Applications can be carried out in the ways that have been regulated in Karanganyar Regency Regent Regulation 67/2018, namely: a. Taxpayers filing an application for reduction or abolition of Tax Administrative Sanctions can only be submitted by the Taxpayer or their proxies individually, where the application is submitted in writing to the Regent through the Head of the Agency, signed by the Taxpayer or his proxies in Indonesian by stating the reasons supporting the application, with attach the following requirements: 1. photocopy of the identity of the applicant and his proxies; 2. photocopy of the decision letter submitted for the application; 3. Stamped power of attorney if authorized; and 4. supporting documents that can show that the Administrative Sanctions are imposed due to the taxpayer's negligence or not because of the taxpayer's fault. b. The Head of the Agency within a period of 3 (three) months after the application is declared complete, must give a decision on the application of the Taxpayer or the Taxpayer's Proxy. If the period as referred to in paragraph (4) has elapsed and the decision has not been issued, then the application for deduction is deemed granted and a decision is issued in accordance with the Taxpayer's application within a period of no later than 1 (one) month as of the end of the said period while continuing to carry out activities. research and put it in the Research Results Report. Then, in this case what is meant by the reduction and elimination of administrative sanctions in office is carried out by issuing a Regent's Decree. As for this matter is limited by certain considerations, among others: a. Regional interests b. stimulus to Taxpayers to increase awareness of Taxpayers in terms of payment administrative order; and / or c. humanitarian social interests.

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