

Analysis of The Imposition Value Added Tax (VAT) on Down Payment of Property Developer Business in Indonesia

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Abstract

The aim of this research is to analyze the extent role of the Value Added Tax (VAT) Regulation Article 4 Act 1 paragraph a, in handling activities of property developer business. In Value Added Tax (VAT) Regulation Article 4 Act 1 paragraph a, it stated that Taxable Goods submission in the customs area is an object of Value Added Tax (VAT). This research also analyzes Value Added Tax imposition in accordance with down payment paid by consumers to the company while the house conveyance has not been done. The process of housing conveyance takes a lot of time and during the process there will be uncertainties and possibilities that make the transaction failed. Several factors caused the transaction failed, it can be from the consumer side, the company side as the seller, or it can be from the bank as the third party which facilitated the Home Ownership Loan. Based on that condition, property developer business should impose a value-added tax on consumers when the building as taxable good is conveyanced to the consumer as a buyer.

Keywords: Down Payment, VAT, Property Developer Business

1. Introduction

Alongside with advances in technology, increasing population, and increasing of population income, many types of business are developing nowadays. The higher a person's income, the higher his ability to spend his money, such as household expenses in the form of revenue expenditure and expense in the form of capital expenditure. To meet all these forms of expenses, various business forms emerge that will fill all the needs of the community. No exception for clothing and housing. To fill the need for housing, the government has previously made a business venture called PT. PerumPerumnas. Low-cost housing is provided for people who have low and medium incomes. So, the public interest to own a house was very high at that time. As a result, the demand for housing is high, so the government is unable to meet the cheap home market share. To anticipate the high demand for housing, the government proposes to the private sector, by encouraging the private sector to participate in fulfilling the housing supply.

The next development is the private sector hand in hand with government companies, namely Perumnas, in fulfill housing needs for the community. Private parties that have strong capital also build various types of luxury house types and also build condominiums, apartments, flats, etc.□

Previously, there were not too many taxes on tax objects which possibly exist in this property business. At first, the tax authority was not so intense to see the object of taxation on this business. Then, in line with the needs of the state expenditure, which is mostly sourced from taxes, the government has made tax rules for the property business because they see the business is growing rapidly. The Imposition of taxes such as the imposition of Land and Building Tax, Land and Building Title Transfer Fee, Final Income Tax and Not Final Income Tax, Value Added Tax, and Sales Tax on Luxurious Goods.

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The surge in demand for land and building property was immediately appreciated by the government. It is proved by issuing rules that made it easier for the community to own the property. This is in line with the government's program to prosper the people, by owning the property such as house to be able to live properly.

Related to the increasing demand for land and building property, the property management and development companies are increasing in number throughout Indonesia, starting from small scale, medium to large scale management companies. This situation leads to the competition between the management company and the property developer so that they can compete and provide attractive promotions for consumers. This promotion is to provide convenience to consumers, so consumers are interested in buying the property.□

The agreement on the purchase of property and land, usually done by giving a booking fee by consumers to the company managing land and building property. Usually, this booking fee is separate from the price of land and building property, so if the transaction is canceled the booking fee is usually forfeited. If the transaction continues, as a binder the consumer pays Down Payment by following what has been determined by the company. After the consumer pays the down payment, the next step is the company prepares a building site, and the house is built later.

According to government regulations, companies must collect 10% VAT from consumers for the sale of non-subsidized land and building property. There is an interesting fact, that the imposition of 10% VAT on taxable goods, in property of land and buildings, is not always directly deposited by the company, this is due to the high possibility that the transaction, such as booking fee and down payment are canceled.

Some factors caused the cancellation of the transaction. First, the loan application for land and building property ownership through the Home Ownership Loan was not granted by the bank. Second, companies need time to build property on their land. It because the companies prepare the area (land maturation), cut and feel, split the land, site plane, Housing Permit, and Property Tax management, a permit from Head of Land National Authority until the building is complete so it is called Taxable Goods. For those reasons, the author is interested in analyzing the imposition of VAT on Down Payment for transferring land and building a property.

Research Problem

Value Added Tax (VAT) Regulation Article 4 Act 1 paragraph a, it stated that Taxable Goods or Taxable Service submission in the customs area is an object of Value Added Tax (VAT). The problem to be discussed is whether the 10% VAT is directly imposed on down payment for the land and building property business. This business is unique because there is no certainty for transferring taxable goods or the building takes more time to finish and it is possible that a transaction is canceled by the seller or the buyer.

Research Purpose

To analyze the imposition of VAT on Down Payment on land and building property businesses, due to differences with other businesses, there is a possibility of the uncertainty of taxable good transferring or when the property has been finished to build, and the possibility of cancelation due to one party. In addition, to analyze differences with other businesses, such as trading businesses, manufacturing businesses that provide certainty for the transferring of taxable goods or products in a short time, so that it can be said that Down Payment is a VAT object.

2. Background of the Study

Property

At first property is more directed to the legal aspects, namely in the form of rights and ownership of a building. Buildings here in the sense of all physical forms, whether it is permanent, semi-permanent, or temporary, along with the land where it stands to an infinite depth.□

The word property comes from English means something that is owned by someone. In Indonesia, the term property is identical to real estate, houses, land, shop houses, buildings, or warehouses.

The definition of property according to Kamus Besar Bahasa Indonesia (KBBI) is *hartaberupatanah, dan bangunsertasarana dan prasarana yang merupakan bagian yang tidak terpisahkan dari tanah dan atau bangunan yang dimaksudkan, tanah milik dan bangunan.*

The meaning of property quoted in wikipedia.com is what belongs to or with something, whether as an attribute or as a component of said thing. Today property is often associated with housing. Actually, everything that is ownership can be called property.

While the property is all objects owned by a person or group that is legally recognized by another party (government) or legally recognized by custom. There are also abstract properties, i.e. all works created by individuals or groups, such as scientific works, and this is often referred to as scientific wealth.

Property Business

The business activities of this property are directly or indirectly related to the needs of the community. This property business supports the needs of the community in providing decent and good housing. Therefore, the role of the government is needed to advance the property business related to the property business. In order to be developed well and quickly, government regulations are needed by property businessman, so that there is a synergy between the government and property businessman. So, the government, the community, and business property receive benefits equally.

Property Developer

The property developer is a company or individual engaged in the property sector, it can be approved as a developer and market the property itself, both small- and large-scale housing. To be more able to develop and be able to compete with similar competitors, the property development company must have clear legality and be accepted by the community. The reason is without clear legality, there is a disapproval of the community. If the company runs normally and honestly, it is easy to get trust from the community. Then next is capital funds that can be used as monetary tools for property development company activities. Such as for land acquisition, licensing, property development, company operational costs, and other unexpected costs. Fund readiness in the property developer business will generate maximum profits, as expected.

VAT (Value Added Tax)

Definition of Value Added Tax according to Mardiasmo (2019: 270) is a tax that is imposed on each value-added of goods and services from producer to consumer. According to Waluyo (2017: 2), Value Added Tax is a tax that is imposed on domestic consumption (in customs) both consumption of goods or service. Meanwhile, according to UntungSukardji (2000: 22), Value Added Tax is the imposition of tax on expenditures for consumption both by individuals and institutions, both private and government in the form of goods or services expenditure which is charged to the state budget.□

From the above understanding, it can be said that value-added tax is an indirect tax imposed on consumers for the supply of taxable goods or taxable services in customs areas. What is meant by the transfer of taxable goods here is included in the distribution to consumers within the customs area? So, every time the transfer of taxable goods or taxable services happens, the value-added tax is calculated in the selling price, whether the agreement will include VAT or exclude VAT.

Value Added Tax (VAT) Objects

According to VAT Law No. 46 of 2009, VAT objects according to Regulation Article 4 Act 1 paragraph a, b, c, d, e, f, g, and h are as follows:□

- a. Transfer of Taxable Goods within the customs area is carried out by the entrepreneurs.□
- b. Imported taxable goods.
- c. Transfer of Taxable Services within the customs area is carried out by the entrepreneurs.
- d. Utilization of Intangible Taxable Goods from outside the customs within the customs area
- e. Utilization of Taxable Services from outside the customs within the customs area
- f. Exports of Taxable Goods are tangible by taxable entrepreneurs
- g. Exports of Intangible Taxable Goods by taxable entrepreneurs
- h. Export of Taxable services by taxable entrepreneurs.

Down Payment

According to Sumarso, SR (2004: 257) down payment is revenue that is not actually the right of the company in that period, but the payment has been received in advance by the company. Because of the payment received by the company has not yet been income for the period, this amount is recognized as current liabilities.

For example, if a company receive down payment in cash, it will be recorded in the following journal:

Cash	xxx
Downpayment	xxx

If there is a down payment received by a company that has been confirmed as a Taxable entrepreneur (PKP), the PKP company must collect 10% VAT. So, when receiving a downpayment, the company will record it in the journal as follows:

Cash	xxx
VAT	xxx
Downpayment	xxx

After being observed and analyzed carefully, there are several factors that cause the buyer (consumer) pays down payment to the buyer as follows:

- There is a payment agreement between the buyer and seller
- The certainty of the goods to be purchased by the buyer
- The certainty that there will be items to be sent or transferred□
- The certainty of the delivery time of goods is fast and not too long.

Financial statements

A financial statement is a summary of financial transactions that occur during the fiscal year. These financial statements are prepared by management with the intention of taking responsibility for tasks assigned to them by the owner. Besides that, financial statements can also be used to meet the needs of parties outside the company (ZakiBaridwan, 2004: 17)□

The financial statements presented to internal and external parties by the management obtained a condition of the company that has occurred (historically), whether the condition is getting better or even vice versa. For this reason, the owners can take the steps needed to keep the company running well and sustainably.

3. Result Analysis

The imposition of VAT on downpayment in the property developer business.□

In the property developer business, to market its property products usually the company will provide facilities to attract consumers to buy their property products. There is a specific strategy to attract consumers for buying property products, as competition in the business becomes tighter.

The government set categories of housing types based on hand covering property of land and building □

1. Subsidized Housing

This subsidized housing is the 30/60 housing type. The government subsidies that house by not imposing 10% VAT on the housing handover to consumers.□

2. Non-Subsidized Housing

This non-subsidized housing is the above 30/60 housing type. The government does not give subsidies to the person because the government believes they can own their houses. So, the government imposes a 10% VAT on the housing handover to consumers.□

At the beginning of the transaction, the company asks the customer to pay a booking fee, as a deposit. This booking fee does not include sales prices and taxes, Building Title Transfer Fee, notary fees, and other handling fees. So, the booking fee is separate from the selling price of the property. □

Then to help customers purchase the property, the company provides several ways to pay. The customers can pay in cash, in staged payment, or use the Home Ownership Loan facility through the bank.□

Before moving to the next stage of purchasing, the company usually sets the amount of down payment for consumers, which are determined by a percentage. For example, 10% of the Selling Price, 30% of the Selling Price, and so on.□

For the sale of non-subsidized houses, for each property handover the consumer is imposed to 10% VAT. It depends on the company policies, whether the company sets 10% VAT is included or exclude the selling price. □

The company must choose one policy as part of its business strategy because it concerns the selling price that must compete with similar competitor companies.

As an example, house selling price, excludes 10% VAT, for house selling price Rp. 500,000,000, - then the VAT is Rp. 50,000,000 which Basic Tax Imposition is Rp. 500,000,000. So, consumers will pay Rp. 550,000,000.□

If the selling price of the house, include 10% VAT, for the selling price of Rp. 500,000,000, - then the VAT is $\frac{10}{100} \times \text{Rp. } 500,000,000 = \text{Rp. } 45,454,545.45$ - which Basic Tax Imposition (DPP) is $\frac{10}{100} \times \text{Rp. } 500,000,000 = \text{Rp. } 454,545,454.55$. So, the consumers will pay Rp. 500,000,000.

The imposition of VAT on down payment of land and building property sale is indeed different from the imposition of VAT on hand covering Taxable Goods (BKP) by distributors in trading, by companies that process raw materials into finished product manufacturing.□

The difference is that there is not any form of the handover taxable property buildings. The reason is that the construction period is relatively longer and requires time for processing the permits, and making site planes, as well as cut-end filing, land clearing of raw land, up to split land that has become the mature land.□

Then the risk possibility of the transaction is being canceled, it can be caused by the consumer itself, or by the developer itself, or by a third party, bank, that facilitate homeownership loan. Based on the possibility of these risks, then, in my opinion, there must be an exception for the property business and developer business in the imposition of VAT for a down payment. It means that the imposition of VAT is still charged on the handover of Building Properties, but the calculation of VAT is determined after the actual handover of Taxable Goods in the form of building units hand over, which it is following the VAT Law Article 4 paragraph 1 point a.□

This VAT imposition is different from down payment in trading companies or manufacturing companies. When the consumer (buyer) pays the down payment for the sale, then at that time the seller will collect 10% VAT on the down payment. This is because the consumer receives the taxable good in real form, then the distance between the down payment and the delivery of the goods is not too long. It means that there is certainty in the form of the Taxable Goods and the delivery time of the Taxable Goods, and there is also binding between the buyer and seller in the form of sales and purchase agreement.□

Based on the situation above, it can be said that the certainty of taxable goods handover is more attached to transactions in trading companies and manufacturing companies, compared to property developers. For more details, it can be seen from the Property Developer Company Financial Statements as follows:

Tabel 3.1 Financial record is an inseparable part of the financial statement

**PT NUSAPERSADA REALTY
COMPARATIVE BALANCE SHEET**

As of December 31, 2016

(Expressed in Rupiah, unless otherwise stated)

	Notes	December 31, 2016	December 31, 2015
ASSETS			
CURRENT ASSETS			
Cash	3.a	925.171.900	261.519.358
Account Receivable	3.b	1.257.912.908	1.080.696.508
Retention Receivable	3.c	302.300.000	-
Others Receivable	3.d	11.900.000	7.800.000
Inventory	3.e	20.760.880.247	24.579.117.899
Total Current Assets		23.258.165.055	25.929.193.765
LONG-TERM ASSETS			
(Current Assets – Accumulation Depreciation)* (Rp. 557.220.500 – Rp. 376.898.291)	3.f	1.737.739.701	1.909.936.909
*= as of December 31, 2015			
Total Long-Term Assets		1.737.739.701	1.909.936.909
TOTAL ASSETS			
LIABILITY AND EQUITY			
SHORT-TERM LIABILITIES			
Down Payment	3.g	1.653.98.398	939.799.188
Tax Payable	3.h	86.350.000	-
Others Short-Term Payable	3.i	90.000.000	130.000.000
Total Short-Term Liabilities		1.830.333.398	1.069.799.188
LONG-TERM LIABILITIES			
Bank Payable	3.j	3.270.921.754	4.256.072.899
Leasing Payable	3.j	4.603.000	62.600.000
Others Long-Term Payable	3.k	45.000.000	328.000.000
Total Long-Term Payable		3.320.524.754	4.646.672.899
EQUITY			
Capital	3.l	5.000.000.000	5.000.000.000
Additional Paid-in Capital	3.m	12.124.294.258	14.713.424.255
Renternaid Earning	3.n	2.409.234.332	3.714.668.821
Current Year Earnings	3.n	311.518.014	(1.305.434.489)
Total Equity		19.845.046.604	22.122.658.587
TOTAL LIABILITY AND EQUITY		24.995.904.756	27.839.130.674

From the data above, it can be seen that in 2015, the company received down payment from consumers in the amount of Rp. 939,799,188, - and in 2016 amount up to Rp. 1,653,983,398. The amount received does not account for VAT of 10%, because the company admits the imposition of VAT at the time when the building is handed over to the consumer. So, the VAT is due when the building is handed over to the consumer. Before the building is handed over to the consumer, the company usually made binding with consumers first. It is called the Sales and Purchased a Binding Agreement on L&B. If the consumer has fulfilled his obligations to pay land and Building Title Transfer Fee, Housing Permit, Property Tax, Notary Fees, Appraisal Fees, Notarial Sales and Purchase Agreement is made through

a notary. After that, the company must submit the purchase and sale agreement with Notary & Official Certifier of Title Deeds. So, the obligation of VAT imposition on consumers must be paid to the State Treasury by the company.□

If we compare with other businesses, such as trading and manufacturing businesses, there are differences in the certainty and the time of taxable goods handover to consumers. So, this is the basis for companies to collect VAT from consumers easier, and later it will be deposited to the State Treasury.

4. Conclusion and Recommendation

Conclusion

In property and building business, there are easier ways to own the property and building. The consumer pays the down payment to the company, as a binding sign for property and building ownership. For non-subsidized buildings, the government determines the imposition of 10% VAT on consumers for handover taxable goods in the form of property and buildings by companies. In accordance with the VAT Law, Article 4 paragraph 1 point a, the VAT imposition occurs because of the taxable goods is handed over in customs areas.□

However, the taxable goods handovering in the form of the building has high uncertainty because there is a possibility that the transaction can be canceled by the buyer or consumer, by the seller or producer, or it can also be by a third party, bank, which provide Home Ownership Loan facilities.□

Because of the risk of transaction cancelation, the down payment has not subject to VAT. Besides that, another factor is the length of time taxable goods in the form of the building is handed over. This is due to the process of land maturation, such as cut and fill, land clearing, site plane, mature land split, until the building stands firm. Those activities require a longer time until the building is handed over to the consumer.

Recommendation

In reality, there is often a debate about VAT imposition on down payments of the property and building business. This is due to the tax authorities that accumulate all Down Payment for any business, which is subject to a 10% VAT. The tax authority does not see whether this transaction includes uncertainty, the binding of the transaction agreement, and the length of time taxable goods handovering. It is because the tax authorities apply the same principle for all businesses.□

My recommendation for the property and building business, there must be ease in the imposition of VAT on the Down Payment. The property and building businesses rather unique compared to other businesses. It is because there is a possibility of a transaction being canceled by one of the parties, or the Home Ownership Loan is not approved by the bank, the consumer does not pass the Bank Indonesia checking because the consumer has a problem with the bank, and also the length of time the finishing the building. For those reasons, VAT on property and buildings is imposed when the company hands over the taxable goods in the form of building to consumers in the customs area, in accordance with the VAT Law Article 4 paragraph 1 point a.

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