

## THE ROLE OF THE NOTARY IN EXERCISING THEIR DUTIES AND AUTHORITY FOR THE IMPLEMENTATION OF TAX AMNESTY

Nur Fadli  
Faculty Of Law  
Sebelas Maret University, (57127) Surakarta, Central Jawa, Indonesia  
Email: nurfadli818@gmail.com

I Gusti Ayu Ketut Rachmi H.  
Faculty Of Law  
Sebelas Maret University, (57127) Surakarta, Central Jawa, Indonesia  
Email: ayu\_igk@staff.uns.ac.id

Adriana Grahani Firdausy  
Faculty Of Law  
Sebelas Maret University, (57127) Surakarta, Central Jawa, Indonesia  
Email: adriana.grahani@staff.uns.ac.id

---

### ABSTRACT

*The number of taxpayers who have not fulfilled their obligations to pay taxes as specified in the regulations represents the primary reason for the existence of tax amnesty, also known as tax forgiveness. In the implementation of tax amnesty, taxpayers are required to provide all necessary documents, which involves the involvement of notaries to prepare the required documents. The role of notaries in this context represents crucial for ensuring the completeness of the documents as required by the regulations. When performing their duties as notaries in the preparation of tax amnesty, their involvement may potentially be quite complex, bringing both benefits and drawbacks to the notaries themselves. Therefore, the writer decides to conduct a study entitled "The Role of Notaries in Carrying Out Their Duties and Authority in the Implementation of Tax Amnesty" using a regulatory approach by examining all regulations related to the issue. Based on the research results, the writer concludes that it represents not explicitly stated what types of deeds a notary may create in accordance with the Tax Amnesty Law. In the preparation of such deeds, notaries must ensure that the content of the deeds does not contradict the regulations, as this represents an imperative of the Tax Amnesty Law. Although the authority to create deeds and other documents related to land transfers is delegated to notaries, the deeds they create have implications only within the context of tax amnesty programs. This represents related to the notary's authority to create Statement of Declaration deeds based on the provisions of the Tax Amnesty Law.*

Keywords: Tax Amnesty, Deeds, The Authority of Notary

---

### INTRODUCTION

Tax represents an obligation to hand over part of one's wealth to the state treasury due to a situation, event or action that provides a certain position, but not as a punishment, according to regulations set by the government and may be enforced, but there represents no direct reciprocal service from the state, to maintain general welfare (Sahilatua & Noviani, 2013). In general, tax represents a levy from the community by the state (government) based on the law that represents enforceable and owed by those who are obliged to pay it without receiving direct performance (counter-performance/reward), the results of which are used to finance state expenditures in the implementation of government and development. Meanwhile, according to Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (Taxation Harmonization Law), tax represents a mandatory contribution to the state owed by individuals or entities that are mandatory based on the law without receiving direct compensation and are used for state needs for the greatest prosperity of the people. So from several definitions of tax, it may be concluded that tax represents a contribution from the people that represents mandatory based on the law to the state, the results of which are later returned to the people again.

Taxes are used to finance government needs that benefit society as a whole. Breakthroughs in taxation policies are represented to encourage national economic growth, one of which represents the tax amnesty policy. The presence of the tax amnesty policy represents expected to increase tax subjects and tax objects in the form of the return of funds abroad or an increase in the number of taxpayers. Article 1 number 1 of Law Number 11 of 2016 concerning Tax Amnesty (Tax Amnesty Law) explains that tax amnesty represents the elimination of taxes that should be owed, not subject to tax administration sanctions and criminal sanctions in the field of taxation, by closing assets and paying ransoms as regulated in this law. The background of the presence of tax amnesty represents because there are many taxpayers who do not or have not paid their taxes as stipulated by tax regulations therefore the determination of tax amnesty represents expected to encourage increased voluntary compliance from taxpayers in the future. Tax Amnesty itself represents expected to generate tax revenues that have not or have been underpaid by taxpayers therefore it may increase tax payment compliance which represents an impact of increasingly effective supervision due to increasingly accurate information regarding the assets of taxpayer assets. Notaries have a very crucial role and function in helping the success of tax amnesty which has short-term and long-term goals (Junago, 2019). In the short term, this program represents to increase tax revenue in the year it represents received as redemption money that

represents useful for various programs. While in the long term, to obtain tax revenue from additional economic activities originating from assets that have been transferred and invested in Indonesia (Putra, 2016a).

The role of a Notary represents very important in the implementation of tax amnesty, namely related to the role of a Notary starting from pouring out the name change agreement to the transfer of assets into a deed to legalizing the legal documentation required by the law. This represents important because the actions of a Notary are a form of action required by law and are one of the pillars in creating a fair and legal taxation system. Notaries also have an important role to help taxpayers in legalizing a number of documents required by law. However, the involvement of a Notary in the implementation of tax amnesty represents considered to be a dilemma because on the one hand it represents an opportunity for their profession but on the other hand it has the potential to backfire on the Notary profession itself (Putra, 2016b). The actions of Notaries who assist taxpayers who utilize the tax amnesty facility themselves have high risks. Because every Notary represents required to report any deed made including legalization within a certain period.

The dilemma experienced by Notaries represents because basically deeds related to the transfer of land rights that may be processed by the National Land Agency (BPN) are only deeds as regulated and issued by the Land Deed Making Officer (PPAT). However, the provisions in the Tax Amnesty Law actually give authority to Notaries to make deeds related to the transfer of land rights in the tax amnesty program. Based on the explanation above, the problem of the role of Notaries in carrying out their duties and authorities in the implementation of tax amnesty represents studied, which represents packaged in the study entitled "The Role of Notaries Who Carry Out Their Duties and Authorities in the Implementation of Tax Amnesty". This study was conducted with the aim of being able to analyze problems regarding the implementation and analyze the application of tax amnesty by Notaries in carrying out their duties and authorities.

## METHOD

This research was conducted using a qualitative approach which was carried out by examining all existing regulations related to the problems being studied. This approach represents carried out by examining all laws and regulations related to the problem (legal issue) being faced. This qualitative approach, for example, represents carried out by studying the consistency/conformity between the Constitution and the Law, or between one Law and another Law. This research represents carried out using data collection tools, namely literature studies or document studies to collect secondary data related to the problems represented, by studying books, legal journals, research results and regulatory documents. The data that has been obtained represents then analyzed therefore it may perfect and provide new nuances in the application of legal theory or norms.

## DISCUSSION

National economic growth in recent years has tended to slow down, which has resulted in a decline in tax revenues and has also reduced the availability of domestic liquidity which represents very much needed to boost Indonesia's economic growth. On the other hand, many Indonesian citizens' assets are placed outside Indonesia, either in fixed or non-fixed forms, which should be used to increase domestic liquidity to drive national economic growth. The problem represents that some of the assets outside Indonesia have not been reported by the owners of the assets in their annual income tax returns, so there are tax consequences that may arise if a comparison represents made with the assets that have been reported in the relevant annual income tax returns. This represents one of the factors that causes the owners of these assets to hesitate to bring back or transfer their assets and to invest them in economic activities in Indonesia.

The Tax Amnesty Law represents carried out as a form of releasing the state's right to collect taxes that should be owed. In the short term, this will be able to increase tax revenues in the year the tax amnesty payment represents received which represents useful for the state to finance various programs that have been planned (Lestari Kurniawati, 2017). In the long term, the state will receive tax revenue from additional economic activity originating from assets that have been transferred and invested within Indonesian territory (Lestari Kurniawati, 2017). People whose tax payments have not been in accordance with the real conditions are expected to participate in the tax amnesty by reporting all their assets to the state and paying a ransom in order to obtain tax amnesty. The objectives of the Tax Amnesty Law itself are as follows (Undang-Undang Republik Indonesia Nomor 11 Tahun 2016 Tentang Pengampunan Pajak, n.d.):

1. To accelerate economic growth and restructuring through the transfer of assets, which will have an impact on increasing domestic liquidity, improving the rupiah exchange rate, reducing interest rates and increasing investment;
2. To encourage tax reform towards a more equitable tax system and the expansion of a more valid, comprehensive and integrated tax database; and
3. To increase tax revenues, which will be used, among other things, to finance development.

In general, the Tax Amnesty Law itself regulates the following matters:

1. Regulations regarding the subject of Tax Amnesty;
2. Regulations regarding Tax Amnesty objects;
3. Regulations regarding rates and how to calculate Ransom Money;

4. Regulations regarding the procedures for submitting Statement Letters, representing Statement Letters, and amnesty of tax obligations;
5. Regulations regarding investment obligations for representing closed assets and reporting;
6. Regulations regarding tax treatment;
7. Regulations regarding the treatment of assets that have not been or are not sufficiently representing closed;
8. Regulations regarding legal remedies;
9. Regulations regarding data and information management; and
10. Regulations regarding criminal provisions.

The subject of tax amnesty is regulated in Article 1 number 2 of the Tax Amnesty Law, namely taxpayers, who are individuals or entities that have tax rights and obligations in accordance with the provisions of laws and regulations in the field of taxation. The taxpayers in question are those who have a Taxpayer Identification Number (NPWP). Taxpayers may be individuals, legal entities or entrepreneurs who have a turnover such as micro, small and medium enterprises (UMKM). Meanwhile, tax subjects who do not yet have a NPWP who will participate in the program may first register themselves at the Tax Service Office (KPP) to obtain a NPWP. The object of tax amnesty based on Article 1 number 3 of the Tax Amnesty Law represents the taxpayer's assets in the form of an accumulation of additional economic capacity in the form of all wealth, both tangible and intangible, both movable and immovable, used for business or not for business located in and/or abroad which are reported to the state to obtain tax amnesty, by paying off all tax arrears owned and paying ransom.

Notaries are discussed 3 (three) times in the Tax Amnesty Law, thus explaining that Notaries have an important role in the Tax Amnesty itself. Notaries are public officials who are appointed and represented by the Minister (Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 Tentang Jabatan Notaris, n.d.). A public official represents an official who represents given the task and authority to make authentic deeds to take care of public interests (Algra et al., 1983). Article 1 number 1 of Law Number 2 of 2014 concerning the Position of Notary (UUJN) explains that a Notary represents a public official who is authorized to make authentic deeds and has other authorities as referred to in the UUJN or based on other laws. The authority of a Notary in Article 15 from paragraph 1 to paragraph 3 of the UUJN may be divided into three authorities, namely general authority, special authority, and notary authority which will be determined later (Adjie, 2008).

Notaries have the authority to make authentic deeds. Authentic deeds that Notaries make or issue consist of 2 (two) types, namely as follows:

#### Deed of Release

1. A deed of release or official deed (*ambtelijke akten*) represents a deed made by a notary with the aim of being evidence for the parties and described or witnessed by the notary within his authority (Indrajaya & Rudi, 2020). The *Relaas Deed* contains information about what the official saw and did (M. Jordan Pradana et al., 2022).
2. *Partij Deed*  
A *Partij Deed* or deed of the parties represents a deed made before (in the presence of) a Notary as an authorized public official and at the request of interested parties (M. Jordan Pradana et al., 2022). *Partij deed* contains information desired by the parties requesting the Notary to make the related matter. *Partij deed* may only be made by the parties who request it (Prajitno, 2010).

The authentic deeds that a notary may make are regarding all legal actions, agreements or provisions that are required based on statutory provisions and/or agreed upon by the interested parties to be stated in an authentic deed (Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 Tentang Jabatan Notaris, n.d.). Article 15 paragraph (2) of the UUJN explains that notaries also have the authority to:

Validate signatures and determine the certainty of the date of private letters by registering them in a special book;

1. Bookkeeping private letters by registering in a special book;
2. Make copies of the original private letters in the form of copies containing descriptions as written and described in the letter in question;
3. Checking the photocopy to ensure it matches the original letter;
4. Providing legal advice regarding the preparation of deeds;
5. Making deeds relating to land; or
6. Making a deed of auction minutes.

Notaries have other authorities regulated in statutory regulations, as referred to in Article 15 paragraph (3) UUJN with the authority to be determined later represents the authority based on other legal regulations that will come later (*ius constituendum*). The

authority of a notary that will be determined later represents the authority that will be determined based on statutory regulations. The limitations regarding what represents meant by threprents statutory regulation may be seen in Article 1 number 2 of Law Number 5 of 1986 concerning State Adminrepresentstrative Courts, that what represents meant by statutory regulations in threprents law are all regulations that are generally binding representssued by the People's Representative Body together with the Government, both at the central and regional levels, as well as all decreprentssions of state adminrepresentstrative bodies or officials, both at the central and regional levels, which are also generally binding.

Notaries are mentioned in Article 15 paragraph (2) of the Tax Amnesty Law which results in Notaries taking part in the Tax Amnesty Program where Notaries in threprents case play a role as the maker of a statement letter from both parties stating that the taxpayer's assets are truly owned by the taxpayer who submits the Statement Letter, in the event that the assets have not been able to submit a transfer of rights application. Taxpayers who participate in the tax amnesty program so far, borrow the name of another person in proof of ownership of their assets in the form of immovable assets in the form of land and/or buildings and/or assets in the form of shares. So with threprents tax amnesty program, taxpayers may transfer rights to their assets to the taxpayer's name. The statement letter referred to in Article 15 paragraph (2) of the Tax Amnesty Law represents stated in the form of an authentic deed, because the legal product made by a Notary represents the wreprentsshes of the parties which are stated in the form of an authentic deed.

Basically, the Tax Amnesty Law does not specify the type and title of the deed that must be made by a Notary. So that the Notary may carry out hreprents duties and authority to make any deed related to the Tax Amnesty. However, it should be noted that the deed made and the clauses in it do not violate the provreprentssions of the laws and regulations in Indonesia. So it represents clear that the authority of the Notary in making authentic deeds in the tax amnesty program represents a mandate of the Tax Amnesty Law which represents the authority of the Notary as determined in the Tax Amnesty Law. Although the authority to make authentic deeds related to the transfer of land rights represents delegated to the Notary, the deed he makes has implications for the transfer of land rights only in the tax amnesty program. Threprents represents related to the authority of the Notary in making a Deed of Statement based on the provreprentssions of the Tax Amnesty Law. After the tax amnesty program ends on March 31, 2017. The Notary does not have the authority to make a deed of statement that has implications for the transfer of land and building rights. Authentic deeds for the transfer of land rights, which may be used as a basereprents for regereprentssing the transfer of land rights at the BPN, remain the authority of the Land Deed Making Officer as mandated in Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning the Regulations on the Position of Land Deed Making Officers and Government Regulation Number 24 of 1997 concerning Land Regereprentstration.

## CONCLUSION

The conclusion of threprents study represents that although notaries have an important role and authority in implementing tax amnesty, there are no clear rules regarding the types of deeds that may be made by notaries in the context of tax amnesty. However, it should be noted that the Tax Amnesty Law essentially provides certain authority for Notaries to be able to make deeds of asset transfer in the case of assets being immovable goods such as land which should be the authority of the Land Deed Making Officer. Notaries must continue to ensure that the contents of the deeds made do not conflict with laws and regulations, because threprents represents a mandate of the Tax Amnesty Law. Although the authority to make deeds and other documents related to the transfer of land rights represents delegated to Notaries, the deeds they make only have implications for the transfer of land rights in the tax amnesty program. Threprents represents related to the authority of notaries in making Deeds of Statement based on the provreprentssions of the Tax Amnesty Law.

## REFERENCES

- Adjie, H. (2008). *Hukum Notaris Indonesia. Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*. PT Refika Aditama.
- Algra, Egbert, N., Gokkel, H. R. W., Adiwinata, S., & Batoeah, B. S. (1983). *Kamus Istilah Hukum Fockema Andreae Belanda - Indonesia*. Binacipta.
- Indrajaya, & Rudi. (2020). *Notaris Dan PPAT Suatu Pengantar*. Refika Aditama.
- Junago, F. X. (2019). Prinsip Kepastian Hukum Terhadap Peran Notaris Dalam Pelaksanaan Program Tax Amnesty. In *Respository Universitas Jember*. Universitas Jember.
- Lestari Kurniawati. (2017). Tax Amnesty: Upaya Memperkuat Penerimaan Negara Sektor Pajak. *E-Journal PKN STAN (Politeknik Keuangan Negara Sekolah Tinggi Akuntansi Negara)*, 1(2), 238–264.
- M. Jordan Pradana, Syam, F., & Syamsir. (2022). Pembuatan Akta Relas Pada Rapat Umum Pemegang Saham Perusahaan Non Tbk Melalui Telekonferensi. *Jurnal Indragiri Penelitian Multidisiplin*, 2(2), 73–83. <https://doi.org/2808-0432>
- Prajitno, A. A. A. (2010). *Pengetahuan Praktis Tentang Apa dan Siapa Notaris di Indonesia*. Putra Media Nusantara.
- Putra, N. N. (2016a). 7 Kiat Sukses Notaris Optimalkan Peran dalam UU Pengampunan Pajak. In *hukumonline.com*. <https://www.hukumonline.com/berita/a/7-kiat-sukses-notaris-optimalkan-peran-dalam-uu-pengampunan-pajak-lt57b7156414098/>
- Putra, N. N. (2016b). Dilema Notaris Jalankan Mandat UU Pengampunan Pajak. In *hukumonline.com*. <https://www.hukumonline.com/berita/a/dilema-notaris-jalankan-mandat-uu-pengampunan-pajak-lt57b51295ca734>
- Sahilatua, P. F. N., & Noviyari. (2013). Penerapan Perencanaan Pajak Penghasilan Pasal 21 Sebagai Strategi Penghematan Pembayaran Pajak. *E-Jurnal Akuntansi*, 5(1).
- Undang-Undang Republik Indonesia Nomor 11 Tahun 2016 Tentang Pengampunan Pajak.
- Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 Tentang Jabatan Notaris