

Juridical Review of The Service Bureau in Assistance in The Management of Motor Vehicle Tax Payments

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Abstract

This study discusses the legality of service bureaus in assisting with motor vehicle tax administration and the potential for fraudulent practices that may occur in their implementation. The use of service bureaus by the public to facilitate the administrative process of motor vehicle tax payments is becoming increasingly common. However, this trend has not been matched by clear legal regulations regarding the status and operations of such service bureaus. The purpose of this study is to examine the legal status of service bureaus from the perspective of Indonesian legislation and to identify potential legal violations committed by certain individuals within these bureaus. The research method used is Normative Legal Research, a method aimed at examining laws and regulations, legal doctrines, and legal concepts related to the issues under study. Normative legal research was chosen because the primary focus of this study is the analysis of legal rules concerning motor vehicle taxation and the legality of service bureaus that assist with the payment process. There is a need for more explicit and specific legal regulation to prevent abuse and to provide legal certainty in the use of service bureaus related to motor vehicle tax administration.

Keywords: *Legality, Service Bureau, Fraud.*

Introduction

Service bureau services in the management of tax administration, especially motor vehicle tax, have become a popular alternative among the Indonesian people. This phenomenon arises in response to the complexity of administrative procedures that are often considered complicated and time-consuming. Service bureaus are present to offer convenience and efficiency, especially for taxpayers who do not have enough time or understanding of the applicable procedures. However, the increase in the use of this service is not balanced by adequate regulations, thus raising legal questions regarding the legality and operational limits of the service bureau.

Motor vehicle taxes are one of the significant sources of regional revenue. Every motor vehicle owner is required to pay taxes in accordance with applicable regulations. This tax payment process is often considered complicated and time-consuming, so many vehicle owners choose to use the services of a service bureau to help them. The service bureau offers convenience in managing tax payments, STNK extensions, name changes, and vehicle mutations. They act as intermediaries between vehicle owners and related government agencies, such as Samsat. According to journal research conducted by Haris Prasetyo, Nurul Herawati and Robiatul Auliy, the use of bureau services in paying motor vehicle tax obligations is allowed, so that indirectly the existence of this bureau's services can help increase taxpayer compliance.¹

On the other hand, some studies show that service bureaus can provide benefits to society, especially in terms of time efficiency and ease of administrative processes. For example, a case study on the Putra Purnawirawan Service Bureau shows that with an assistance program for STNK renewal service bureaus, the process of calculating annual taxes, 5-year taxes, name changes, and mutations can be carried out more quickly and accurately. The system is also equipped with an SMS-gateway feature that automatically sends reminders to customers before the tax due date, so that people become more orderly in paying taxes.²

¹Haris Prasetyo, Nurul Herawati and Robiatul Auliy, *The Influence of the Implementation of E-Samsat, Economic Level, and Service Bureau on the Motivation to Pay Motor Vehicle Taxes*, JIAKu: Scientific Journal of Accounting and Finance – Vol. 2, No. 4 (2023) p.355 – 368

² Jong Jek Siang and Djoni Dwijana, *STNK Extension Bureau Assistance Program in*

Motor vehicle taxes are one of the main sources of revenue for local governments. The collection and management of this tax is regulated in various laws and regulations, such as Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments, and Regulation of the Minister of Home Affairs Number 5 of 2020 concerning Motor Vehicle Tax Management. Although legal provisions have been available, implementation on the ground still faces various challenges, such as low taxpayer compliance and lack of legal literacy in the community. It is in this context that service bureaus take on the role of intermediaries between the public and government agencies, especially in terms of tax payments and the renewal of vehicle documents.

However, the existence of service bureaus also opens a gap for abuse of authority and fraudulent practices. Many cases were found where service bureaus did not have official business licenses, used fake documents, and embezzled tax funds⁵. This is not only detrimental to consumers, but also has the potential to reduce public trust in the tax system. Therefore, the urgency of formal regulation and strict supervision of service bureau practices is very important in order to ensure legal protection for the public and the integrity of the tax administration system itself.

This study aims to examine the legality of service bureaus from the perspective of applicable laws in Indonesia and identify forms of law violations committed by service bureau personnel. The research uses a normative approach method, by examining laws and regulations, legal doctrines, and related literature. The results of this study are expected to make a scientific contribution to the development of administrative law and consumer protection, as well as a reference in the formation of stricter and more comprehensive regulations on service bureau operations in Indonesia.

Research Methods

The method used in this study is normative juridicism, which focuses on the study of applicable legal norms, such as laws and regulations. Normative juridical is the process of finding legal rules, legal principles, and relevant legal doctrines to answer existing problems.³ Using the *Statue Approach*, the

Determining Taxes, EKSIS Journal, Vol.6 No.02 (2013), p. 41-52

³ Peter Mahmud Marzuki, *Legal Research*, Kencana Prenada Group, Jakarta, 2021, p. 35.

legislative approach is an approach that uses legislation and regulations.⁴ Thus, this research is focused on analyzing the rules or norms in positive law, especially related to the Bureau of Services in Assistance in Motor Vehicle Tax Payment Management.

Research Results and Discussion

1. Legality of Service Bureau in Motor Vehicle Tax Management

A service bureau is a form of business entity established with the main purpose of providing services in the form of services to the community, especially in terms of managing important documents or papers related to motor vehicles. The services provided by service bureaus generally include various forms of administrative services, with the most common services being the annual renewal of the Vehicle Number Certificate (STNK) and the payment of Motor Vehicle Tax (PKB). The existence of service bureaus in modern society is increasingly important because of the high need for fast, practical, and efficient services without having to directly intersect with complex bureaucratic processes in government institutions such as the One-Stop Manunggal Administration System (SAMSAT).⁵

Motor vehicle tax management services are often mediated by service bureaus, which in practice act as representatives of vehicle owners to carry out tax obligations. This service bureau provides administrative convenience, especially for people who have difficulty accessing direct services at Samsat. However, the legality of service bureaus in the context of public and civil law requires clear regulation. One of the important aspects that cannot be ignored is the legal basis of service bureaus' business as MSME actors, and the legality of their actions based on power of attorney in accordance with the provisions of the law.

Based on Article 1 number 1 of Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (MSMEs), MSMEs are productive economic activities owned by individuals and business entities. Service bureaus that take care of vehicle tax payments are classified as service

⁴ Ibid. p. 137

⁵ Prasetyo, H., Herawati, N., & Auliyah, R. *The Effect of the Implementation of E-Samsat, Economic Level, and Service Bureau on the Motivation to Pay Motor Vehicle Taxes*. Scientific Journal of Accounting and Finance (JIAKu), Vol. 2, No. 4 (2023), pp. 355-368.

businesses, and often meet the criteria for MSMEs in terms of capital and turnover, as stated in Article 6 of the MSME Law.

In discussing the legal relationship between vehicle owners and service agencies, we must first understand the basic concept of contract or engagement law in civil law. One of the important figures who has studied a lot of contracts and law in Indonesia is Salim HS. In his book, Salim explained that an agreement or contract is a legal relationship that occurs because of an agreement between two or more parties to cause certain legal consequences, which in our context is the willingness of the service bureau to take care of the extension of the STNK and the payment of vehicle tax on behalf of the vehicle owner. The validity of a contract must meet four main conditions, namely the agreement of the parties, the ability to make an agreement, a certain thing as the object of the agreement, and causes that do not conflict with law, public order, or morality⁶.

The main legal basis for motor vehicle tax payment is contained in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. In the law, it is stated that motor vehicle tax is a tax on the ownership and/or control of motor vehicles. The provincial government is given the authority to collect this tax through cooperation with related agencies, such as the National Police of the Republic of Indonesia and PT Jasa Raharja.

Law Number 28 of 2009 also stipulates that the object of motor vehicle tax is ownership of private vehicles, official vehicles, and transportation vehicles. The tax subject is the individual or entity that owns or controls the vehicle. In other words, the vehicle owner is directly responsible for the payment of his motor vehicle tax. This payment must be made every year, as evidenced by the ratification of the Vehicle Number Registration Letter (STNK) by the police through the Samsat service. But in practice, not all vehicle owners pay taxes directly. Many people choose to use the services of intermediaries, namely service bureaus, to take care of the process. This phenomenon raises fundamental questions about the legal legitimacy of service bureaus in carrying out tax payment arrangements on behalf of vehicle owners. This is important considering that in Law Number 28 of 2009 and in

⁶ Salim HS, *The Development of Contract Law in Indonesia*, Publisher: Sinar Grafika, 2015, p. 47

its implementing regulations, there is no regulation that explicitly mentions or regulates the existence of service bureaus as the legal party to manage vehicle taxes. This condition creates a legal vacuum (*rechtsvacuum*) which can have an impact on legal uncertainty in the field. Although not explicitly regulated, the practice of service bureaus still takes place and is even accepted by most agencies, including Samsat.

Based on this description, we can conclude that the practice of using service bureaus in the field is growing rapidly and responds to the needs of the community for the convenience and speed of service. However, the absence of regulations, service standards, and supervision makes this practice vulnerable to legal, social, and administrative problems. Therefore, steps to improve through formal arrangements and increase the capacity of public services need to be taken immediately so that service bureaus can carry out their functions legally, professionally, and responsibly.

2. Legal consequences for service bureaus that commit criminal acts in the management of motor vehicle tax payments.

The phenomenon of service bureaus committing fraud in the management of motor vehicle taxes not only causes financial losses to the community, but also causes legal unrest. In this context, it is important to analyze the legal consequences that can be imposed on perpetrators based on two main branches of law: criminal law and civil law. This approach is relevant because the actions of the perpetrator can cause two dimensions of loss, namely to public *order* and to the individual interests of the victim.

a) Consequences of Criminal Law

Based on Indonesian criminal law, fraud is a criminal act regulated in Article 378 of the Criminal Code (KUHP), which is an act committed with the intention of benefiting oneself or others unlawfully by using a false name, trickery, or a series of lies to move others to hand over an item. In practice, illegal service bureaus often use the mode of pretending to be an official agent of Samsat or a third party in collaboration with the Regional Revenue Office, by offering quick and easy management services, but it turns out that they do not have the authority and legal legality to carry out these activities. This can be qualified as an element of fraud, this kind of act not only damages the sense of justice of the community but also lowers public trust

in government institutions and the state service system, so it is natural that criminal action is important and urgent⁷.

1) Criminalization of Perpetrators

Perpetrators of fraud by illegal service bureaus can be sentenced under Article 378 of the Criminal Code, with a maximum penalty of four years in prison. However, in many cases, the perpetrator can also be charged with other articles such as: Article 372 of the Criminal Code concerning embezzlement, if the perpetrator controls the payment of tax money without depositing it, Article 263 of the Criminal Code concerning forgery of letters, if the perpetrator uses or makes false proof of payment. Articles 55 and 56 of the Criminal Code to catch parties who participate in or assist in the crime. From a law enforcement perspective, law enforcement officials need to implement a holistic approach, including digital forensic investigations, tracking the flow of funds, and cooperation between agencies such as the police, prosecutor's office, and Samsat⁸.

2) Criminal Liability

The concept of criminal liability requires the existence of elements of guilt (*mens rea*) and unlawful acts (*actus reus*). The perpetrators of illegal service bureaus clearly have the intention of committing fraud because: Knowing that they are not part of an official agency. Using tricks to convince the victim. Enjoying the benefits of his actions. Criminal liability is inherent if there is a unity between the will and unlawful acts committed consciously, as well as the existence of legal consequences caused to third parties⁹. The evidentiary system in the Criminal Code still contains a number of weaknesses that can be used in the practice of fraud. The great authority given to investigators without strict supervision has the potential to open up opportunities for abuse, especially if there is illicit cooperation between officials and service bureaus. Meanwhile, suspects, victims, and their legal counsel do not have enough legal space to challenge or test the validity of the evidence used, thus weakening their position in the legal

⁷ *Ibid.*, p.127

⁸ Andi Hamzah, *Introduction to Indonesian Criminal Law*, (Jakarta: Ghalia Indonesia, 2016), pp. 198–200.

⁹ Simons, *Het Nederlandsche Strafrecht*, Translated by R. Soesilo, (Jakarta: Politeia, 2007), p. 312.

process. This creates dangerous inequality, especially when illegal service bureaus are able to take advantage of weaknesses in the proof system to launch fraud against vehicle owners and related agencies¹⁰.

b) Civil Law Consequences

In addition to being a criminal act, the act of fraud of an illegal service bureau can also be qualified as *onrechtmatige daad* or an unlawful act based on Article 1365 of the Civil Code (KUHPer), namely:

"Every act that violates the law and brings harm to another person obliges the person who by mistake publishes the loss, to compensate for the loss." Thus, victims of fraud have a legal basis to file a civil lawsuit to demand compensation.

1). Unlawful Acts (PMH)

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2) Lawsuitable Damages In civil law, forms of compensation can include:

- a. Material losses, such as money that has been paid to illegal service agencies.
- b. Immaterial Losses, such as discomfort, embarrassment, or psychological loss due to feeling deceived. In judicial practice, the court can determine the amount of compensation by paying attention to the principles of justice, propriety, and proof submitted by the victim.

3) Civil Law Enforcement

A civil lawsuit against an illegal service bureau can be filed with the local District Court. However, the obstacles that are often faced are:

- a. It is difficult to find the identity of the perpetrator because service bureaus often operate without an official legal entity.

¹⁰Achmad Royani, Enik Isnaini, Jatmiko Winarno, *EVALUATION OF THE APPLICABILITY OF INDONESIAN CRIMINAL PROCEDURE CODE*, Independent Journal, p. 130-131

b. Victims are reluctant to report because of the nominal amount of small losses or fear of a lengthy legal process.

This shows that although civil legal protection is available, its effectiveness still depends on people's legal awareness and courage to fight for their rights.

Closing

The legality of service bureaus in the management of motor vehicle tax payments requires a clear legal basis, both from the aspects of public law and civil law. One of the important legal bases is the recognition of service bureaus as Micro, Small, and Medium Enterprises (MSMEs) actors. According to Article 1 number 1 and Article 6 of Law Number 20 of 2008 concerning MSMEs, service bureaus can be categorized as MSMEs because they include service businesses with certain criteria in terms of capital and turnover, as well as the inclusion of Power of Attorney regulated by the Civil Code Articles 1792-1819 concerning Power of Attorney.

Service bureaus that commit fraud in the management of motor vehicle tax payments can be held criminally or civilly liable according to the level and form of the mistake committed. In the realm of criminal law, the perpetrator can be charged with Article 378 of the Criminal Code on fraud, and in certain cases it can be extended to Article 372 of the Criminal Code on embezzlement, especially if the service bureau receives a sum of money from the consumer but does not use it to pay vehicle taxes according to the agreement. Meanwhile, from a civil law perspective, the perpetrator of fraud can be sued on the basis of unlawful acts (onrechtmatige daad) based on Article 1365 of the Civil Code, with the obligation to compensate both material and immaterial losses to the victim.

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