

DETERMINATION OF PAYMENT OF TAX OBJECTS IN THE DEED OF LEASE AGREEMENT FOR THE MANAGEMENT OF TOURISM OBJECTS MADE BY A NOTARY

Rizqy Miftahul Huda^{1a*}, Rahmatul Hidayati^{2b}, Ahmad Siboy^{3c}

¹²³ Magister Kenotariatan Program Pascasarjana, Universitas Islam Malang, Malang, Indonesia

^a 22402022013@unisma.ac.id

^b rahmatulhidayati@unisma.ac.id

^c siboysalman@unisma.ac.id

(*) Corresponding Author

22402022013@unisma.ac.id

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ABSTRACT

This study examines the determination of tax obligations in lease agreements for the management of tourism objects, focusing on the Cooperation Agreement for the Utilization of the Pantai Bentar Tourism Object. The research aims to analyze the legal regulation of tax object payment, the legal consequences of the absence of taxation clauses, and the notary's responsibility when the deed does not clearly stipulate the parties' rights and obligations. This study employs a normative juridical method using statutory and conceptual approaches, with legal materials collected through library and document research on regional asset management, taxation, and notarial law. The findings indicate that although the agreement formally fulfills the requirements of Article 1320 of the Indonesian Civil Code, it substantively fails to comply with mandatory legal norms due to the absence of taxation clauses and clear allocation of rights and obligations. This omission violates prevailing fiscal regulations and may cause legal uncertainty and potential regional financial losses. The study concludes that notaries bear professional and administrative responsibility to ensure that authentic deeds comply with mandatory public law provisions to guarantee legal certainty in regional asset management.

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INTRODUCTIONS

The principle of the rule of law requires that every action of the government and society is based on applicable legal norms, including in terms of the management of public assets. One form of public asset management that has strategic value is the management of tourist attractions owned by the local government which are leased to the private sector to increase regional revenue. In this context, the activity of leasing public assets not only creates a civil legal relationship between the local government and the management party, but also raises public law implications in the field of administration and taxation. (Putra et al., 2024)

From a civil law perspective, the legal basis of a lease agreement is regulated in Article 1548 of the Civil Code (KUHPerdata), which outlines that a lease agreement is an agreement in which one party binds itself to give the right

to enjoy an item to the other party for a certain period of time, in exchange for the payment of an agreed price. Based on these provisions, the legal relationship between the local government and the private sector in the context of the management of Bentar Beach fulfills the elements of a lease agreement. However, the nature of the object of the agreement in the form of Regional Property (BMD) makes the agreement not only subject to civil law, but also to state administrative law.

In the context of national tax law, Article 23A of the 1945 Constitution emphasizes that taxes and other levies that are coercive for state purposes are regulated by law. This principle gives birth to the tax legality principle, which is that every tax collection must have a clear legal basis and its implementation must be regulated in writing. Thus, when local governments carry out cooperation that generates income, the agreement must include the legal basis for taxation so as not to cause fiscal uncertainty. (Abidin et al., 2024; Fathoni et al., 2022)

In terms of income from rent, Article 4 paragraph (2) of Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law) stipulates that income from land and/or building rentals is the object of Final Income Tax (PPh) at a rate of 10% of the gross amount. Meanwhile, if the tenant is a Taxable Entrepreneur (PKP), then it is in accordance with the Value Added Tax Law of 2009. Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), the lease and lease transaction can also be subject to Value Added Tax (VAT) of 11%.

A notary is an official who is authorized to prepare an authentic deed has a great responsibility, not only in terms of the legality of the form, but also in ensuring the content of the deed, as well as containing financial obligations such as taxes. In the context of lease and lease management of regionally owned tourist attractions, rental receipts for the use of public assets are one of the sources of regional revenue that have tax consequences, either in the form of income tax, VAT, or regional taxes such as business service levies. (Abidin et al., 2024; Prasada, 2025)

When viewed from the notary side, the role of notaries as public officials is clearly regulated in Law Number 2 of 2014 concerning the Notary Position (UUJN). Based on Article 15 paragraph (1), the notary is authorized to make an authentic deed regarding all acts, agreements, and provisions required by laws and regulations. Meanwhile, Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Notary Position (UUJN) requires notaries to act honestly, thoroughly, independently, impartially, and protect the interests of the parties. The obligation to "act carefully" means that the notary must ensure that the contents of the deed are prepared by paying attention to the applicable legal provisions, including tax laws and public administration.

Conceptually, legal acts carried out by notaries in making deeds are the implementation of part of state functions in the field of civil law. Therefore, notaries as public officials are bound by the principles of good governance, which include the principles of legal certainty, professionalism, and accountability. If the notary is negligent so that the deed made is not in accordance with the applicable law, then it can give rise to legal liability both administratively, civilly, and ethically.

Based on Article 84 and Article 85 of Law Number 2 of 2014 concerning the Notary Position (UUJN), notaries can be subject to administrative sanctions if proven to have violated the obligations of their position or committed negligence that resulted in losses for interested parties. In the context of a deed of cooperation in regional asset management, the negligence of the notary in including tax provisions can result in losses for local governments due to reduced potential regional revenue from the tax and levy sector. (Adawiyah et al., 2024; Turman et al., 2025)

From the description above, it can be seen that there is a close tangent between civil law, state administrative law, and tax law in notary practice. Therefore, every notary must understand the relationship between these norms in order to carry out his or her role professionally. In the Bentar Beach management agreement, civil law provides the basis for the formation of an alliance between the local government and the private sector, the state administrative law regulates the governance of public assets, while the tax law regulates the fiscal obligations arising from the legal relationship.

However, in practice, the three branches of law often run separately. Notaries focus more on the civil aspects without considering the administrative and fiscal implications of the deed made. This is what causes the emergence of legal problems such as those that occurred in the Bentar Beach management agreement. Therefore, an interdisciplinary approach is needed in the writing and analysis of notarial deeds related to public assets, so that it not only meets the principles of formal legality but also substantive. (Almando, 2023; Pulungan et al., 2024)

Based on these problems, it can be stated that the inconsistency between the substance of the deed of the Bentar Beach management agreement and the laws and regulations, especially in terms of taxation, shows the importance of the role of the notary as a guardian of legal validity. Notaries are not only the author of the deed, but also legal officials who must ensure that the contents of the deed are in accordance with applicable laws and protect the public interest.

The absence of a tax object clause in the deed of agreement made by a notary has the potential to weaken the legal position of local governments in collecting tax obligations, as well as opening loopholes for violations by the private sector. This can also be assessed on the negligence of the notary in exercising his professional authority, because notaries are required to prepare deeds that are not only legally formal, but also substantive in accordance with the provisions of civil law, tax law, and state administrative law.

Based on the background described earlier, this study is focused on several main problems related to the regulation of payment of tax objects in the deed of lease-lease agreement for the management of tourism objects. These problems include how the arrangement for the determination of the payment of tax objects in the deed of lease-lease agreement for the management of tourism objects is reviewed from the laws and regulations in Indonesia, how the legal consequences arise if the deed of agreement does not include a tax payment clause, and what is the form of notary liability if the deed of agreement for the management of tourist attractions belonging to the Regional Government that is made does not clearly contain the rights and obligations of the parties.

The description of the problem formulation of this study aims to analyze the arrangement of the determination of tax object payment in the deed of lease-lease agreement for the management of tourism objects based on the provisions of the applicable laws and regulations, assess the suitability of legal consequences due to the non-inclusion of tax payment clauses in the agreement deed, and examine and explain the notary's liability in the event that the deed of agreement for the management of tourist attractions owned by the Regional Government is not Listing the rights and obligations of the parties expressly and comprehensively.

METHOD

This research uses a normative legal research method that views law as a norm or rule that applies in a positive legal system. This approach focuses on the study of laws and regulations, legal principles, and doctrines relevant to the issue of determining tax objects in the deed of lease-lease agreement for the management of regionally owned tourism objects. Normative research was chosen to assess the suitability of the substance of the notarial deed with the provisions of civil law, state administrative law, and applicable tax law, especially related to fiscal obligations and notary responsibilities as public officials.

The research approaches used include a statutory approach and a conceptual approach. The legislative approach is carried out by examining various regulations that regulate the management of Regional Property, tax obligations, and the authority of notaries in making authentic deeds. The conceptual approach is used to deepen the understanding of key legal concepts such as lease-lease agreements, tax objects, authentic deeds, notary authority, as well as the principles of legal certainty and *pacta sunt servanda*, so that the analysis is not only textual, but also theoretical and systematic.

The source of legal material is obtained through literature studies and document studies. Primary legal materials include relevant laws and regulations, secondary legal materials in the form of literature and expert opinions, and tertiary legal materials as support. The analysis of legal materials is carried out in a descriptive and prescriptive manner, namely by describing the applicable legal provisions and providing a normative assessment of the suitability of the substance of the agreement and the role of the notary in ensuring legal certainty and accountability in the management of regional assets.

RESULT AND DISCUSSIONS

Regulation of Determination of Tax Object Payment in the Deed of Lease Agreement for the Management of Tourism Objects Based on Laws and Regulations in Indonesia

In the Indonesian legal system, lease agreements are one of the most commonly used forms of legal relationships in the practice of managing public assets, including regionally owned tourism objects. This legal relationship not only creates civil rights and obligations between the parties, but also causes public legal consequences,

especially in the field of taxation. Therefore, the determination of tax objects in the lease agreement for the management of tourist attractions is an important aspect to ensure legal certainty and fiscal accountability of local governments.

According to Article 1548 of the Civil Code (KUHPercivil), a lease agreement is an agreement in which one party binds himself to provide the other party with the enjoyment of an item, for a certain time, with the payment of a price agreed by the party. Thus, the legal relationship of the lease gives rise to reciprocal rights and obligations between the landlord and the tenant on the basis of a valid agreement. (Tanhi & Nubatonis, 2025)

This agreement is a consensual agreement, meaning that it is considered valid from the date of the agreement between the parties, without requiring any specific formal form. However, in the context of an object that is Regional Property (BMD), the agreement is not only subject to civil law, but also to state administrative law. Therefore, the form and content of the agreement on the utilization of Regional Property (BMD) must follow the provisions of the Regulation of the Minister of Home Affairs (Permendagri) Number 19 of 2016 concerning Guidelines for the Management of Regional Property, especially Article 25 paragraph (4) which requires the utilization agreement to include the rights and obligations of the parties, including tax obligations.

Substantively, lease agreements made between local governments and third parties such as in the management of Bentar Beach have a dual function. On the one hand, this agreement is a form of economic cooperation that supports the increase of Regional Original Revenue (PAD), while on the other hand, it is the object of collecting regional taxes and levies in accordance with Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (HKPD Law). (Saputro et al., 2023)

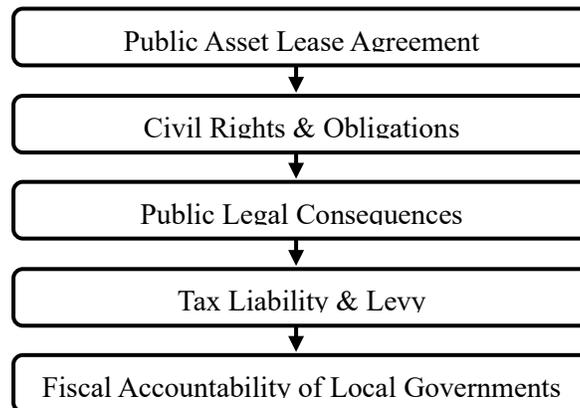


Figure 1. Legal and Tax Consequences Flow in Regional Asset Lease Agreements

The tax obligations arising from this agreement are not merely additional legal consequences, but are an instrument of state revenue that should not be ignored. Tenants as economic beneficiaries are obliged to calculate, deduct, deposit, and report taxes related to rent. In addition, the economic value of the management of tourist attractions does not only come from renting land/buildings, but can also include tourist area management services, entertainment services and public facilities, ticket sales and kiosk/tenant rentals at tourist sites. Each of these activities has the potential to become an additional tax object, so the tax clause must be made in detail to avoid fiscal gaps in regional and central tax collection.

In the Indonesian tax system, the term tax object refers to everything that can be taxed under the law. Based on Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), every income received or obtained by taxpayers, both individuals and entities, from certain business activities or legal acts, is the object of Income Tax (PPh). Income sourced from leasing activities to rent land and/or buildings is included in the category of Final Income Tax Article 4 paragraph (2), with a rate of 10% of the gross amount of the rental value. (Adare, 2023; Yolanda et al., 2025)

In Article 3 of the deed, it is stated that the value of the rental contribution is set at Rp415,000,000.00 per year, accompanied by a profit sharing of 35% of the net profit to the Probolinggo Regency Government. Although this clause regulates the sharing of economic revenues, no explicit provisions are found regarding the taxing obligation on the value of the rent or profit. Only Article 7 paragraph (1) states that the burden of Land and Building Tax (PBB) is borne by the tenant, without further explanation regarding income tax or VAT.

The principle of tax legality is a fundamental principle in Indonesian tax law, which emphasizes that every tax levy must have a clear legal basis. This principle is stated in Article 23A of the 1945 Constitution of the Republic of Indonesia, which states that taxes and other levies that are coercive for state purposes are regulated by law. (Habut & Ahmad, 2025)

In the context of a regional asset lease agreement, the principle of tax legality requires a notary as a public official to ensure that all fiscal obligations of the parties are stated in writing in the deed. This is in accordance with the opinion that affirms that the responsibility of the notary does not only stop at the fulfillment of the formal form of the deed, but also includes the substance of the law related to the consequences of the legal acts outlined in the deed. Thus, the neglect of the tax clause can be categorized as negligence in the exercise of the authority of the notary position.

In addition, legal certainty in taxation includes two aspects, namely certainty in the determination of tax objects and certainty in the enforcement of tax sanctions. In this case, the absence of a tax clause creates uncertainty in both aspects, both for the taxpayer (the tenant) and for the local tax authority. The absence of a tax clause in the deed of the Bentar Beach management agreement also has the potential to cause fiscal losses for the Probolinggo Regency Government. Based on Law Number 1 of 2022 on the Financial Relations of the Central and Regional Governments (HKPD Law), the proceeds of leases and cooperation in the utilization of regional assets are one of the sources of Regional Original Revenue (PAD). If the taxation aspect is not expressly regulated in the agreement, then revenues from the sector cannot be optimized. (Yustini & Pricilia, 2023)

Legal Consequences of Not Including Tax Payment Clauses in the Deed of Lease Agreement for Renting Tourism Objects

The absence of tax arrangements in the agreement will also make it difficult to report and monitor in the Regional Government Information System (SIPD), because financial and asset data is not accompanied by legal documents that explain the regional revenue component of the object. In terms of legal certainty, there is no reference that can be used by the tenant or the local government to resolve the conflict if one of the parties ignores its fiscal obligations. In this case, the imprecision of the contract arrangement will reduce the effectiveness of the *lex certa* principle in the Indonesian legal system.

The absence of tax arrangements in the Bentar Beach management agreement has a direct impact on:

1. Weak legal certainty for the parties, because it is not clear who is obliged to deduct and deposit taxes
2. Risk of violating tax laws if one of the parties does not meet its fiscal obligations.
3. Potential regional financial losses, because taxes and levies that should be the source of Regional Original Revenue (PAD) cannot be legally collected. (Spencer et al., 2024)

From the perspective of state financial administration law, this is included in the category of negligence in the management of regional assets, as stipulated in Article 313 of Law Number 23 of 2014 concerning Regional Government, which states that regional officials can be held accountable if there is a regional loss due to negligence or abuse of authority.

Notaries as public officials have the authority to make authentic deeds as stipulated in Article 15 paragraph (1) of Law Number 2 of 2014 concerning the Notary Position (UUJN). In carrying out their duties, notaries are obliged to act honestly, thoroughly, independently, and impartially. This obligation means that the notary must ensure that the substance of the deed does not conflict with applicable legal regulations. The notary's responsibility is not only on the formality aspect of the deed, but also on the substance of the notarized legal act. Therefore, in the context of a public asset management agreement such as Pantai Bentar, notaries are obliged to ensure that tax clauses are listed as a form of compliance with fiscal laws. If not, then the notary can be held ethically and administratively responsible if there is a state loss due to his negligence. (Franciska, 2022)

Based on the above description, it can be concluded that the Bentar Beach Utilization Cooperation Agreement Number 03 of 2024 has met the formal requirements for the validity of the agreement according to the Civil Code (KUHPerdata), but substantially it is not fully in accordance with the legal provisions of regional asset management and national taxation. The main weakness lies in the absence of clauses governing tax obligations and financial reporting procedures, thus causing legal uncertainty and potential fiscal losses for local governments.

In order for similar agreements to have full legal force and support the principle of public accountability, it is necessary to reformulate the clause of the agreement which contains these four things, the first of which is the explicit provisions on Final Income Tax Article 4 paragraph (2) and VAT. Second, the mechanism for collecting and depositing taxes. Third, Fiscal audit arrangements at the end of the cooperation period, and fourth, Notary Responsibility in ensuring compliance with the substance of the deed to fiscal regulations. Thus, in the future, every regional tourism asset management agreement is not only legally valid in civil law, but also in line with the tax legal system and the principles of good governance which are the basis for clean governance. (Putra et al., 2024)

Notary's Responsibility for the Deed of Agreement for the Management of Tourist Attractions Owned by the Regional Government that is made does not include the Rights and Obligations of the Parties

From the perspective of the Notary Professional Ethics, the Indonesian Notary Code of Ethics, it is stated that notaries are obliged to maintain the dignity and honor of their positions by carrying out their duties professionally, independently, and based on honesty. If the notary is negligent or does not provide legal advice on the substance of the deviant agreement, then the action is not only a violation of the law, but also a violation of professional ethics that can be sanctioned by the Notary Honorary Council.

As a public official, notaries play an important role in maintaining legal certainty. Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Notary Position (UU JN) emphasizes that notaries are obliged to act honestly, independently, thoroughly, and impartially. This *prudential principle* requires notaries to not only pay attention to legal formalities, but also ensure that the substance of the deed does not conflict with the applicable laws and regulations. (Maharani & Primantari, 2025; Prasada, 2025)

The determination of tax objects in the lease agreement deed for the management of regionally owned tourism objects is an integral part of the implementation of the principles of legality, legal certainty, and fiscal accountability. The Deed of Agreement on the Cooperation in the Utilization of Bentar Beach Number 03 of 2024 has fulfilled the formal aspects of civil law, but substantially does not include tax clauses as required by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations, Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, and Permendagri Number 19 of 2016 concerning Guidelines for the Management of Regional Property.

The absence of such clauses causes potential legal uncertainty, tax avoidance risks, and fiscal losses for local governments. Therefore, in the practice of notary, notaries need to ensure that every deed involving the use of public assets is required to contain explicit tax provisions, both in the form of payment obligations, legal basis, and reporting mechanisms. This approach is in line with the principles of good governance, which demands transparency, legal compliance, and accountability in any legal action involving state wealth. (Hakim et al., 2026)

The prudential principle is one of the main pillars in the notary profession. This principle is reflected in Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Notary Position, which requires notaries to act honestly, thoroughly, independently, impartially, and protect the interests of the parties involved in legal acts.

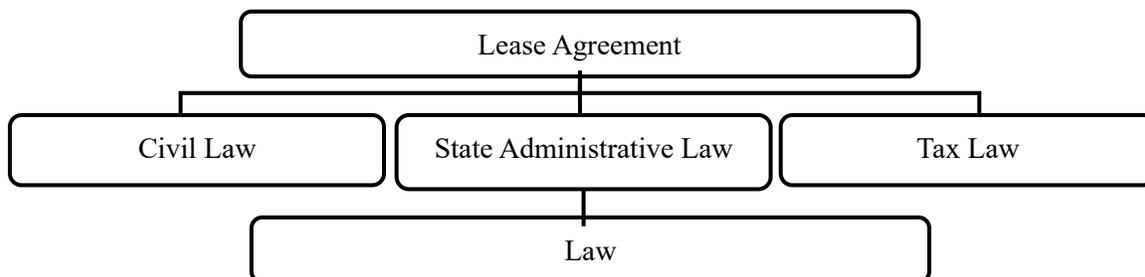


Figure 2. Legal Structure of Public Asset Agreements

Due to the absence of a clear regulation of the rights and obligations of the parties in the case of the Bentar Beach management agreement, the notary acts as a legal facilitator who prepares the deed of agreement between the local government and the private sector. However, notaries also have a preventive function to prevent violations of the law in the future. If the notary does not include the clauses required by regulation (e.g. tax clauses, financial liability, or fiscal supervision), then he has ignored the principle of prudence and the principle of legal certainty. (Turman et al., 2025)

Due to the absence of a clear arrangement of the rights and obligations of the parties so that similar violations do not occur, the notary must make efforts to:

- a. Administrative law verification, examining all regulations related to the object of the agreement (in this case Permendagri Number 19 of 2016 concerning Guidelines for the Management of Regional Electives and Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments).
- b. Written legal advice to the parties, providing an explanation of tax obligations and legal consequences if the tax clause is not loaded.
- c. The preparation of standard clauses of public deeds, ensuring that each regional asset management agreement includes clauses on taxation, audit, and financial reporting obligations.
- d. Consultation with the Regional Finance Agency (BKD) before the deed is signed. (Ananta, 2025; Andriyani et al., 2024)

These steps are a concrete implementation of the principle of *due diligence* that must be carried out by a professional notary.

Even though there is no criminal element, these actions can still give rise to civil and administrative liability, especially if they result in losses for local governments. Therefore, notaries are obliged to carry out their role not only as a recorder of the will of the parties, but also as a guardian of legal certainty that ensures that each deed is in harmony with the national legal system, including tax laws and regional financial administration.

Due to the absence of clear regulation of the rights and obligations of the parties, in making any deed involving public assets, notaries must adhere to the principles of prudence, legal certainty, and compliance with public law norms (compliance). These three are the moral and juridical basis in maintaining the integrity of the notary office and realizing clean and transparent governance.

CONCLUSION

The results of the study show that the Deed of Agreement for the Utilization of Bentar Beach Tourist Attractions made by a notary formally meets the legal requirements of the agreement as stipulated in Article 1320 of the Civil Code. The deed has contained elements of agreement between the parties, skills, certain objects, and halal causes. However, substantively, the deed does not fully reflect compliance with the applicable legal norms because it does not include tax obligation clauses and a comprehensive formulation of the rights and obligations of the parties. This condition is contrary to the provisions of Permendagri Number 19 of 2016, Law Number 7 of 2021, and Law Number 1 of 2022 which require the inclusion of fiscal responsibility in regional asset utilization agreements, so that it has the potential to cause legal uncertainty and weaken the principle of accountability in the management of regional property.

The findings of the study also revealed that the non-inclusion of a tax object clause in the regional asset utilization agreement is a form of inconsistency with the principles of tax law. Every use of regional assets that provide economic benefits must be subject to tax obligations, either in the form of income tax, value-added tax, or regional levies. The absence of tax clauses in the agreement deed has the potential to cause fiscal losses for local governments and reflects the weak integration between civil law and tax law in the practice of public asset management agreements. Thus, the inclusion of tax obligations in the deed is not only administrative, but is a normative consequence of every economic transaction that generates added value.

This study also concludes that notaries have legal responsibilities that are not limited to fulfilling the formal aspects of the deed, but also include the material substance of the agreement so that it is in harmony with the mandatory

legal provisions. The negligence of the notary in ensuring the inclusion of tax clauses and the rights and obligations of the parties is contrary to the principle of prudence as stipulated in the Law on the Notary Position. The consequences of such negligence can be in the form of civil, administrative, or professional ethical liability. Therefore, the role of notaries is crucial in ensuring legal certainty, accountability, and transparency in the use of regional assets, especially in agreements that have a direct impact on the fiscal interests of local governments.

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