



THE LEGAL POLICY ONLINE PAYMENT OF TAX LAND BUYING AND SELLING IN THE CYBER ERA

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Abstract

The tax validation system in the process of paying land taxes is still considered not to provide effective and efficient services. This study aims to determine whether the land tax payment validation policy in Indonesia has met the legality principle and whether the Host to host system implementation policy on land tax payment validation has met the legality principle. This study uses a normative legal research method, with statute approach and a conceptual approach. Legal material is analyzed by induction and interpretation syllogism. The results of the research are the first land tax validation policy which is carried out to match the suitability of the data in the form of mandatory identity and the amount of tax but in reality, it is not in accordance with the land tax validation rules. Second, the implementation of the host-to-host system on the validity of the payment of land tenure tax is the most appropriate solution to be applied so that it can provide effective and efficient services.

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A. Introduction

For human life, land is a basic need. Because it is a basic need, every human wants the land for his life. To possess land, there are many ways, one of which is by transferring rights, both buying and selling, grants, and wills.¹

¹Adimas Wahyu Widayat, SH, 016, AnalisisPengenaaan Bea PerolehanHak Atas Tanah Dan BangunanDalam Proses JualBeli Tanah Dan Bangunan Di KabupatenKebumen, *Jurnal, Lex Renaissance*, No. 2 Vol. 1 Juli 2016: 166 – 181, Hlm. 167

The transfer of land by Indonesian citizens can be carried out through the land registration process. According to Sumarjono, the regulation on land tenure as a form of legal certainty exists to answer community problems regarding the importance of the role of land in meeting community needs and development.² As a form of legal certainty, the purpose of land

²Urip Santoso, 2014, *Hukum Agraria Dan Kajian Koperhensif*, CetakanKe 4, Kencana Media Grub, Jakarta, Hlm. 282



registration is to provide legal certainty (*rectscadastre*). In addition, legal certainty also has other objectives in the framework of fiscal (*fiscaalcadastre*).³

There are two types of taxes in the transfer of land rights, namely Income Tax on Land (PPH) and Tax (Bea) on Acquisition of Land and Building Rights (BPHTB). The PPH tax collected by the central government through the Ministry of Finance organized by the Tax Service Office (KPP) and the BPHTB is collected by the Regency/City Government. In the process of land registration in the transfer of sale and purchase rights, one of them is validation. Validation is the determination of prices in the transfer of sale and purchase rights over certain land parcels carried out by community members or checking proof of payment of tax payments.⁴

In practice, the Validation Process has indeed used an online system, but the drawbacks of the online system for land tenure taxes are: (1) natural sector where BPHTN payments are made in the online system of each district and city, while PPH is carried out on the DGT online server, each KPP; (2) existing online systems only issue a printout of a Pay Order Sheet and not a Validation Sheet or Foam; (3) after the payment is made based on the payment order sheet, the validation must still be checked manually so that the taxpayer is still required to be present.

The above problems result in two: (1) the process of transferring land rights will take longer because it will be constrained in the tax validation process which takes quite a long time;

(2) existing online systems, both the district and city online systems and the DJP online system for each KPP, still demand the presence of taxpayers before the *Fiskus*. Thus, the presence of taxpayers, apart from slowing down the transfer of names, will certainly be very dangerous amid the current pandemic. It was stated in Article 28G paragraph (1) regarding the right to self-protection, "*Everyone has the right to personal protection, family, honor, dignity, and property under his control, and has the right to a sense of security and protection from the threat of fear to do or not do something. do something that is a human right*".⁵

Therefore, the state is required to take the proper solution to deal with the problem of public services that are still running but still prioritize the safety of the people as a manifestation of human rights. It is according to Article 28G paragraph (4) that *the protection, promotion, enforcement, and fulfillment of human rights is the responsibility of the state, especially the government*.⁶ Furthermore, in paragraph (5), it is mentioned: "*that in order to uphold and protect human rights in accordance with the principles of the rule of law, democracy, then the implementation of human rights is guaranteed, regulated, and set forth in laws and regulations*".⁷

In addition to protecting public safety, it can be stated in the legislation, the State must also put forward a legal principle as a basis that can be used for the direction of government policy, namely the principle of *salus populi suprema lex*, which means that the

³Parlindungan, 1998, Pendaftaran Tanah-Tanah Dan Konversi Hak Milik Atas Tanah Menurut Uupa. Bandung: Alumni. Hlm. 72

⁴ 7mulyoto, Legal Standing, Yogyakarta: Cikrawala Media, 2016, Hlm. 84.

⁵Undang- undang Dasar 1945, Pasal 28G ayat(1)

⁶Undang- undang Dasar 1945, Pasal 28G ayat(4)

⁷Undang- undang Dasar 1945, Pasal 28G ayat(5)



safety of people's lives is the highest law. The application of this principle is very necessary so that the safety of people's lives is of utmost priority.⁸

Based on the above rules, a solution is needed in the implementation of tax payment validation on the transfer of land rights that is more effective and efficient without compromising public safety. As stated by Wiwoho that in order to create a quality public service, the information technology system is used as a means of supporting activities that are efficient and effective in order to achieve justice and legal certainty.⁹ With the existence of a technology-based tax administration system in public services, work patterns become easier and more effective because the ability of technology-based systems in the tax validation system can save time, be easy, and be accurate.

In a previous study, Saragih explained that the validation mechanism in BPHTB taxes can change the transaction value even if it is based on the sale value of the tax object listed in the SPPT PBB, resulting in legal uncertainty which results in the validation process taking a long time.^{10,11}

⁸ Dika Federica Shodikin, Fidyah Panorama Damayanti, 2017, Penerapan *Asas Salus Populi Suprema Lex* Untuk Mengurangi Pengaduan Pelanggaran Hak Atas Kasus Pembangunan Infrastruktur, Prosiding Simposium II – UNIID 2017

e-ISBN: 978-979-587-734-9, hlm. 193

⁹ Prof Dr Jamal Wiwoho, Sh, Mhum, 2020, Bahan Kuliah Tentang Materi Muatan Informasi Dan Transaksi Elektronik, Pascasarjana Pdihi S3 Uns,

¹⁰ Iswari Ramadhani Saragih, 2020, validasi pajak bea perolehan hak atas tanah dan bangunan (BPHTB) yang nilai transaksinya mengacu pada pajak bumi dan bangunan (PBB) studi kasus di kawasan pendapatan daerah kotamedan

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The validation process for payment of Land Tenure Tax can be integrated by both taxpayers, Local Governments, Tax Service Offices, and the National Land Agency, so it is hoped that the validation process of tax payments as one of the requirements in the registration process at the National Land Agency can run effectively and efficiently in dealing with the new normal.

B. Research Method

This paper is doctrinal legal research. As explained by Wigiyosoebroto, that doctrinal legal research is based on two concepts, namely: *first*, the law as the principle of truth and justice which is natural and universally applicable, the type of study is the philosophy of law and the *second* law is positive norms in the legislative system. Nationally, the type of study is pure legal teaching.¹² In this study, there are several approaches used, including the conceptual approach. This approach departs from the doctrines and some of the views that developed in the science of law. The conceptual approach is utilized due to there are no legal rules for the problems at hand, so it is hoped that it can bare an understanding and legal principles that are relevant to the problems to be

Jurnal Lex Justitia, Vol. 2 No. 1 Januari 2020, hlm. 77

¹¹ Erlina Setyawati, 2017, Tinjauan Hukum Kewajiban Verifikasi dan Validasi Bea Perolehan Tanah Dan Bangunan (BPHTB) Bagi Wajib Pajak Yang Mengikuti Pengampunan Pajak Di Kota Semarang, Jurnal Spektrum Hukum, Vol. 14/No. 2/Oktobre 2017, hlm. 273

¹² Soetandyo Wigiyosoebroto dalam Setiono, 2005, *Pemahaman Terhadap Metodologi Penelitian Hukum*, Surakarta, Program Pascasarjana UNS, hlm. 20



studied.¹³The statutory approach constitutes reviewing all laws and regulations that are related to the legal issues being handled.¹⁴

The type of data to be used in this research is secondary data, namely a number of legal materials or facts or information which could be found in literature, documents, laws and regulations, applicable legislation, reports, dissertations, theories, and other written sources that are relevant to the problem under study.¹⁵The legal materials used are primary legal materials in the form of applicable laws and regulations.

The research in this paper is prescriptive. A prescriptive legal science aims to get suggestions on what to do to overcome particular problems.¹⁶With prescriptive research, researchers propose to provide a more effective solution in the tax validation process for the transfer of land rights so that the transition process can take a faster time even though it is still during the COVID-19 pandemic. Data is collected through secondary legal material analysis.¹⁷Library study is used to collect legal materials by using content analysis.¹⁸By using this technique, it is possible to determine the theoretical basis by conducting studies and

analyzing books, laws and regulations, and other documents, including the results of existing research that are related to the discussion to be studied, namely the implementation of the *host to host*, technology-based that will provide convenience which is certainly more effective and efficient during a pandemic. The data obtained in this study were analyzed using a deductive syllogism. Deductive syllogism is a way of drawing conclusions from general things to specific things that are individual.¹⁹ Deductive syllogism is reasoning that departs from a generally accepted legal rule to individual and concrete cases. The deductive method is based on the major premise (general statement), then a minor premise (particular statement) is proposed, and from the two premises, a conclusion is then drawn.

C. Results and Discussion

1. Problems with the implementation of payment validation of land rights transfer taxes during the pandemic

Tax validation policy is a stage carried out in order to obtain recognition of land and building rights. Tax validation is carried out in order to match the suitability of the data, as described in the Regulation Director General of Taxes Number Per 21-/PJ/2019 concerning Procedures for Research on Evidence of Fulfillment of Obligation to Deposit Income Tax from Transfer of Land and Building Rights and Sale and Purchase Agreements on Land and or Buildings and their Amendments, in Article 4 it is stated that validation is carried out to check data conformity in

¹³ Joni Ibrahim, 2007, Teori dan metodologi Penelitian Hukum Normatif, Cetakanke 3, BayumediaPublising, Malang, hlm. 306

¹⁴ Peter Mahmud Marzuki, 2005, *Penelitian Hukum*, edisi pertama, cetakanke 2, KencanaPrenada Media Group, Jakarta, hlm. 94

¹⁵ *ibid*

¹⁶ Op Cit Setiono, *Pemahaman Terhadap Metodologi Penelitian Hukum*....hlm. 6

¹⁷ Ronny Hanitjo Soemitro, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, hlm 11

¹⁸ Op Cit Peter Mahmud Marzuki, 2011, hlm. 21

¹⁹ Dwi Pril milono Adi, 2015, Penalaran hukum dalam kritik ilmu, Jurnal Hukum JATISWARA, Fakultas hukum, Universitas Mataran, Vol. 3, No. 3, November 2015, hlm, 454-455



the form of Taxpayer Identity, the amount of tax paid according to the applicable rules and conformity with the tax account code.

Validation is a process of activities carried out to test whether or not an instrument is appropriate, then Validation is said to be an activity to test something.²⁰From this system, taxpayers will get a printout of a tax payment order sheet containing the amount of tax to be paid. After the taxpayer makes a payment based on the printout of the payment order sheet, then the taxpayer submits the documents needed in the tax validation process, including the series of procedures that have been made by the PPAT Land Deed Making Officer, to be submitted to the relevant agency for validation. Even though it is online-based, the online tax payment system of each agency is sectoral and only issues a printout of a pay order sheet and not a validation sheet or foam, so that after making a payment, the taxpayer is still required to attend with the necessary documents. Therefore, it can be said that the application of the online system applied by the two agencies has not been able to implement a fast and simple service system. As a result, the validation process is also one of the factors that hinder the process of transferring rights at the Land Office.

In addition to the above problems, related to the validation process, other problems were found, for example, related to BPHTB taxes. Sometimes in the payment of BPHTB there is still a difference in the value that forms the basis for the imposition of BPHTB between the taxpayer and the tax authorities, resulting in an

underpayment by the taxpayer. The underpayment occurs due to the taxpayer setting the transaction price in the Sale and Purchase Deed (AJB) which is considered not in accordance with the fair price.

In the midst of the Covid-19 virus pandemic, where we are required to limit ourselves to interacting with other people directly (*social distancing*), there is a new breakthrough in the technology-based land tenure tax validation process, namely the host-to-host system. This system is a system between servers that are connected directly to each other in real-time. In other words, communication or relationship in a network occurs between hosts, namely computers with computers or computers with other devices that are connected to each other.²¹

Existence Technology-based systems are used to facilitate human activities, such as machines, tools, or hardware²². According to McKeown quoted by Suyanto, information technology refers to all forms of technology used to create, store, change and use information in all its forms.²³Thus, it can be said that the existence of technology is expected to provide convenience in every human activity in meeting their needs. Therefore, the purpose of technology is to find solutions to every problem, increase creativity and help make work

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²⁰<https://www.karyatulisku.com/2017/12/memahami-perbedaan-dari-pengertian.html>

²¹Erien Nada Azandra, 2017, Host To Host Payment System Pada PoliteknikAti Padang, JurnalSains Dan Informatika Research Of Science And Informatic, E-Issn : 2502-096x P-Issn :2459-9549. Hlm. 4

²²RusmanDkk, PembelajaranBerkasTknologiInformasi Dan Komunikasi . (Jakarta :Grfindo Persada, 2012), Hal. 7

²³Suyanto, 2005. *Konsep Dasar Anak UsiaDini* : Jakarta : Departemen Pendidikan Nasional. Hlm 3



more effectively so that it can be carried out efficiently.²⁴ In the Theory of Technological Determinism, it is also stated that Technological Determinism is a concept that can make it easier to understand the relationship between technology and interpersonal communication. The existence of technology provides many advantages to humans where technology can make every human activity can be complete in a relatively fast, easy, and very pleasant time.²⁵

Therefore, the influence of technology in the new normal period is a social change where the world community, especially Indonesia, enters the era of new life order. In the theory of social change, change is a continuous process in every society. According to Pound, social change has an interrelated relationship with changes in the legal sector, so legal changes can affect social change. This is in accordance with the function of law as a means of community engineering (*a tool of social engineering*).²⁶ Pound states that social control of the progress of civilization in a society is in dire need of social control, this is intended to regulate behavior that is contrary to social order as a rule. Therefore, the function of the state is needed to maintain social order, so the law is used as a tool to control the social community.²⁷

²⁴Sutarman. 2009. *Pengantar Teknologi Informasi*. Jakarta :Bumi Aksara. Hlm. 17

²⁵ Krug, Gary, 2005, *Communication Technology and Cultural Change*, Sage Publications, London P.17

²⁶ Munir Fuadi, 2013, *Teori-Teori Besar (Grand Theory) Dalam Hukum*, Jakarta, Kencana Prenamdeia Group, hal 248. Hlm. 248-249

²⁷ Munir Fuadi dalam Nasaruddin Latif, 2017, *Teori Hukum Sebagai Sarana / alat pembaharuan atau mereka masyarakat* eISSN 1303-5150

2. Effectiveness of implementing host to host on the implementation of the validity of the land transfer tax during the pandemic

During the current Covid-19 pandemic, the government has been encouraging the public to implement social distancing. The appeal certainly has an impact on every community activity, including taxation issues related to the validation process of land ownership tax, because the tax validation process still requires taxpayers to attend and interact with many people including tax officers. With the current conditions, new breakthroughs are needed that are effective and provide convenience even though they are carried out without having to interact directly. Through Covid-19, it gives us lessons about the new order of life.²⁸ One of the times is our awareness of the existence of technology in our daily lives.

The application of technology, especially in the tax validation process, has been implemented long before COVID-19, but there are still some shortcomings if it is applied in the current COVID -19 pandemic. One of the obstacles to the current online system is that taxpayers are still required to attend and interact directly with the officer in charge of tax validation.

The implementation of a host-to-host on the validity of the payment of land tenure tax is the most appropriate solution to be applied in the current COVID-19 pandemic. Host to host often known as H2H is a system between servers that are connected

, *Jurnal Law Review*, Volume 3, nomor 1, Januari-Juni 2017, hlm 77

²⁸<https://ugm.ac.id/id/berita/19479-new-normal-momentum-transformasi-sosial-budaya>, diakses tanggal 31 Mai 2020



directly to one another in real-time. In other words, communication or relationship in a network occurs between hosts, namely computers with computers or computers with other devices connected. If it is associated with tax validation related to land tenure, then the host-to-host can be done by connecting servers with one another so that it can be well integrated. Integration in the host to host can involve the taxpayer, the Revenue Service of each regency/city, the Tax Service Office of each regency/city, and also the Land Office. In the host-to-host system, there is no need to submit documents in hard copy because all documents are only submitted in soft copy. Therefore, the submission of documents that allow direct interaction is no longer needed.

The host-to-host is a breakthrough that can be adapted to the development of Saman. As a form of legality host-to-host system, several regulations can be found that form the basis for implementing the host-to-host system, including Article 5 paragraph 2 letter b of the Ministerial Regulation! Finance of the Republic of Indonesia Number 29 / PMK.03/2020 concerning the implementation of Tax Administration Services in Force Majeure Due Corona Virus Disease which reads "*The electronic application for Tax Administration Services as referred to in paragraph (1) is carried out by.*"²⁹

1. *Fill out the Tax Administration Service application form;*
2. *Upload a digital copy (softcopy) of the Tax Administration Service*

²⁹Pasal 5 ayat 2 huruf b Peraturan Menteri! Keuangan Republik Indonesia Nomor 29 /PMK.03/2020 Tentang pelaksanaan Pelayanan Administrasi Perpajakan Dalam Keadaan Kahar Akibat Pandemi Corona Virus Disease 2019
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application form which has been signed by the Taxpayer along with the Requirement Documents; and

3. *Send Electronic Documents as referred to in letter b to the registered e-mail address of KPP, KP2KP and/or DGT Regional Office or through certain channels determined by the Director General of Taxes.*

Furthermore, in Law number 25 of 2009 concerning Public Services, Article 5 number 7 letter reads: "*Administrative services as referred to in paragraph (1) include: government administrative actions that are required by the state and regulated in laws and regulations in the context of realizing protection of personal, family, honor, dignity, and property of citizens.*"

Article 15 letter f reads: "*The operator is obliged to carry out services in accordance with service standards.*" This means that in the current conditions, service innovation is needed by public service providers, one of which is by utilizing information technology (*online*) so that the implementation of public services can still run effectively.

Article 24, reads "*deed documents or the like in the form of electronic or non-electronic in the implementation of public services are declared valid in accordance with statutory regulations.*" It means Electronic documents in service are considered valid and can be enforced during the Covid-19 period which requires *social distancing*.

Article 12 paragraph 4 states "*In an emergency, requests from other providers must be fulfilled by the provider providing (1) assistance in accordance with the duties and functions of the relevant organizing organization based on the laws and regulations.*"



With the above legality, the Government can carry out its authority. Every implementation of the authority that has been obtained by the relevant parties must be based on the principle of legality, starting from the granting of the authority to the stage of implementing the authority. The principle of legality becomes very important in legal countries, one of which is Indonesia. Because Indonesia is a state of law, this is based on the 1945 Constitution article 1 paragraph (3) which states that *the State of Indonesia is a state of Law*.³⁰ This is in line with Wiwoho's opinion that as a country that adheres to the teachings of the theory of legism, every policy is taken by the state, in this case, the government, must be based on regulations as a form of legal certainty, namely in the form of laws and regulations, arbitrariness of the actions of state officials.³¹

Utilization of technology according to Thomson is expected by workers both in doing work and even in other activities in their lives to be able to use technology as effective support.³² Feenberg mentions two theories about technology, namely instrumental theory, which is based on the idea that technology is a tool that is always ready to serve the interests of its

users. While the substance theory believes that technology is dynamic so that it can change social life.

The existence of technology in human social life can be felt at every level of social level. Daniel Chandler identifies several assumptions related to the Theory of Technological Determinism, one of which is called *the technological imperative*, which assumes that the existence of technology cannot be contained because the existence of technology always follows the times.³³ This is related to the existence of a new order of life which we call the new normal as a new step in dealing with Covid-19. The new order of life (new normal) places the existence of technology into something that is really needed and is no longer something that is only used as needed. This condition requires that the government in carrying out its activities must adapt to current conditions, both economic and social conditions. This condition can no longer deny that the existence of technology is a factor that changes the social order, this is referred to as social change.

The existence of technology in its development will certainly affect the social changes in the society so the law must follow these social changes. Vago explains the law and social control. Vago separates law and social control and he does not unite them into a single unit.³⁴ Vago explained that several forms can be a tool for controlling social society, and the law is one of the effective social controls. In line with Steven Vago's opinion, the theory of social change from Pound says that social change has an interrelated relationship with changes in the legal sector so legal changes can affect social

³⁰ RA Regita Ramadhania, 2019, *Artikel, Pelaksanaan Hukum Administrasi Negara Dalam Kewenangan Atribusi Berdasarkan Asas Legalitas*
: <https://www.researchgate.net/publication/336878210>, diakses tanggal 5 Juni 2020

³¹ Op Cit, Jamal Wiwoho, Lulik Djatikumoro, hal: 29.

³² Sawitri, 2016, *Pengaruh Teknologi Informasi, Pemanfaatan Teknologi Informasi, Efektivitas Penggunaan Dan Kepercayaan Teknologi Informasi Terhadap Kinerja Individual*, Publikasi Ilmiah, Universitas Muhammadiyah Surakarta Hlm. 7

³³ *Op Cit*, Thurlow, Lengel and Tomic,

³⁴ Steven Vago, 1991, *Law and Society*, New Jersey, Prentice Hall, hal. 135.



change. This is in accordance with the function of law as a means of community engineering (*a tool of social engineering*).³⁵ Pound states that social control of the progress of civilization in a society is in dire need of social control, this is intended to regulate behavior that is contrary to social order as a rule. Therefore, the function of the state is needed to maintain social order, so the law is used as a tool to control the social community.³⁶

Therefore, the law is needed as an effective tool for social change. Law, especially legislation is a vehicle that can be used to transport social evolution.³⁷ With the social change associated with tax law, Wiwoho proposes two ideas that must be implemented by the government in tax reform in the face of the new normal, namely: *first*, there needs to be restoration in the form of improvements both related to the administrative system and also tax policy. These restorations or changes are intended to be adapted to current conditions; *second*, it is necessary to change the perception of the taxpayer so that the change in the perception of the taxpayer is expected to foster taxpayer compliance in paying taxes.³⁸ The two ideas associated with current conditions, of course, must be supported by policies that are oriented

towards an effective and efficient work culture. The technology-based system is expected to provide a positive breakthrough in taxation so that it is expected to increase taxpayer compliance.

D. Conclusion

Tax validation policy on the transfer of land rights, even though it has used an online system, the presence of the taxpayer is still needed. This is because the existing online system only issues a printout of a payment order sheet and not a validation sheet of foam so that after making a payment the taxpayer is still required to be present with the required documents in the validation process including a printout of the payment order sheet. In addition, the application of the online system applied by the two different agencies has not been able to implement a fast and simple service system. In the current pandemic period, new breakthroughs are needed to make public services more effective and still provide protection for people who will pay taxes on the transfer of land rights. Therefore, the implementation of a host-to-host on the validity of the payment of land tenure tax is the most appropriate solution to be applied in the current COVID-19 pandemic. Host to host or often known as H2H is a system between servers that are connected directly to one another in real-time. In other words, communication or relationship in a network occurs between hosts, namely computers with computers or computers with other devices connected. If it is associated with tax validation related to land tenure, then the host-to-host can be done by connecting servers with one another so that it can be well integrated.

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³⁵ Op Cit, Munir Fuadi, hlm. 248-249

³⁶ Op Cit, Nasaruddinlatif, , Journal of Law Review, page 77

³⁷ Purwadi Day, 2020, Law and Social Change Course. Eleven March University Surakarta

³⁸ Jamal Wiwoho, 2009, "Reform and Modernization of the National Taxation System in the Framework of Improving Compliance Paying Taxes", in Satya Arinanto and NinukTriyanti, *Understanding the Law from Construction to Implementation* Jakarta, Rajawali Pers, 2009. Pg. 496-506.



Integration in the host to host can involve taxpayers, the Revenue Service of each regency/city, the Tax Service Office of each regency/city, and also the Land Office. Integrating all servers from related agencies can facilitate the tax validation process both in efficiency and cost time and most importantly there is no need to submit documents in hard copy because all documents are only submitted in soft files. Therefore, the submission of documents that allow direct interaction is no longer needed.

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Jamal Wiwoho, 2009, “Reformasi dan Modernisasi Sistem Perpajakan Nasional dalam Kerangka Meningkatkan Kepatuhan Membayar Pajak”, dalam Satya Arinanto and Ninuk Triyanti, *Memahami Hukum Dari Konstruksi Sampai Implementasi* Jakarta, Rajawali Pers.

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