JSH
Jurnal Smart Hukum
https://ejournal.ipinternasional.com/index.php/jsh
Open Access Journal
by Inovasi Pratama Internasional. Ltd
Member of Crossref
ISSN. 2961-841X

Regulation of the Deposit of Duty on The Acquisition of Land And Building Rights by Clients to Notaries in The Transfer of Land and Building Rights

Anak Agung Krisna Sumantri[1*)], I Nyoman Putu Budiartha[2], Ni Made Jaya Senastri[3]
[1,2,3]Magister Kenotariatan, Falkutas Pascasarjana, Universitas Warmadewa, Denpasar, Indonesia
Email: gungkriss1@gmail.com[1], budiarthaputu59@gmail.com[2], nimadejayasenastri@gmail.com[3]
[*)]Corresponding Author: gungkriss1@gmail.com
DOI: https://doi.org/10.55299/jsh.v5i1.1961
***Article history:** Received June 02, 2026: Revised June 24, 2026: Accepted July 04, 2026*

ABSTRACT
The regulation of BPHTB deposits by clients to notaries in the transfer of land and building rights is a crucial issue in Indonesian notarial, land, and local-tax law. This article analyses the normative position of notaries who receive client deposits for Duty on the Acquisition of Land and Building Rights (BPHTB) and the legal responsibility arising when the deposit is not used according to its intended purpose. This study applies normative legal research with statutory, conceptual, and case approaches. Legal materials are examined through grammatical, systematic, and teleological interpretation. The analysis shows that notaries have attributed authority to prepare authentic deeds, whereas receiving and managing BPHTB deposits is not expressly regulated in the Law on Notary Position, PPAT regulations, or local-tax rules. The regulatory silence creates legal uncertainty because the practice continues on the basis of trust and service efficiency. If deposited funds are misused or the transfer process is not completed, the notary may incur civil, administrative, ethical, and criminal liability. The article recommends limited regulation based on written authorization, fund segregation, transparent receipts, prompt tax payment, and enforceable professional sanctions.

***Keywords:** BPHTB Deposit; Land Rights Transfer; Legal Certainty; Legal Responsibility; Notary*

INTRODUCTION

The regulation of the deposit of the Duty on the Acquisition of Land and Building Rights (Bea Perolehan Hak atas Tanah dan Bangunan/BPHTB) by clients to notaries in the transfer of land and building rights constitutes a central issue in notarial law, land law, and local tax law. This practice lies at the intersection of public service needs, legality, and protection of client funds. In land and building transactions, notaries and Land Deed Officials (Pejabat Pembuat Akta Tanah/PPAT) are positioned as public officials who guarantee the formal validity of legal acts and support orderly land administration. This position often leads the public to perceive notaries not merely as deed makers, but also as parties capable of assisting with a series of transaction-related administrative processes, including the payment of Duty on the Acquisition of Land and Building Rights (BPHTB)

BPHTB is a tax imposed on the acquisition of rights over land and/or buildings, which must be fulfilled by the party acquiring the rights. In sale and purchase transactions, this obligation generally lies with the buyer, while the seller is subject to income tax obligations arising from the transfer of rights. The payment of BPHTB is practically connected to the signing of deeds and the registration of the transfer of rights because the authorized official must ensure that tax obligations are fulfilled before land administration procedures can proceed. Therefore, failure or delay in BPHTB payment not only creates fiscal risks but may also obstruct the establishment of legal certainty regarding the status of the land and building.

In practice, clients frequently entrust BPHTB funds to notaries or PPATs because of efficiency, trust, and limited knowledge of tax payment procedures. This practice has developed as a form of additional service, particularly when clients expect tax payment, document verification, deed signing, and title transfer procedures to be carried out as an integrated process. Although this practice is often regarded as common, normatively, the act of receiving, holding, and managing BPHTB funds is not expressly stated as part of a notary's authority under the Law on Notary Office. This places notaries in a vulnerable position, as additional service activities may be challenged as acts beyond their official authority if the funds are not properly managed.

This issue becomes more complex because positive law has not yet provided uniform technical standards regarding the deposit of BPHTB funds with notaries. There are no specific norms governing the form of deposit documents, the deadline for payment, the separation of client funds from personal or office operational funds, reporting mechanisms, or professional sanctions in the event of irregularities. The absence of such standards increases the risk of civil disputes, administrative violations, ethical breaches, and even allegations of criminal conduct if the deposited funds are not paid in accordance with their intended purpose. Thus, the core problem does not merely concern whether notaries may assist in the BPHTB payment but rather how the law should provide clear limits, procedures, and responsibilities.

Previous studies indicate that the issue of BPHTB deposits has attracted attention in notarial and land law. Hidayat (2018) explains that the authority of Notaries/PPATs to receive BPHTB payment deposits must be interpreted cautiously because the primary obligation to pay the tax remains with the taxpayer. Utami (2019) examines the responsibility of Notaries/PPATs in relation to deeds of transfer of rights where BPHTB has not been paid and emphasizes the importance of fulfilling tax requirements in the transfer of rights. Prihandini and Cahyarini (2024) frame the responsibility of PPATs in calculating BPHTB as an instrument for realizing legal certainty, while Kasman, Khairani, and Syofiarti (2025) demonstrate the importance of PPAT accountability in BPHTB payments in land and building sale and purchase transactions.

Other studies have also shown that irregularities involving deposited tax funds may shift from administrative issues to criminal liability. Lestari (2020) demonstrates that depositing tax money with a notary may lead to embezzlement when funds under the notary's control are used for purposes other than those intended. Arsanti and Putrijanti (2024) linked the misuse of tax funds by PPATs to criminal liability in the field of taxation. In a broader context, Ardhita and Yunanto (2023) emphasize that notarial authority related to land affairs must be understood as limited authority and must not exceed the scope of authority granted by statutory regulations.

The novelty of this article lies in the formulation of a normative construction that connects the practice of BPHTB deposits with three analytical frameworks: authority, legal certainty, and legal responsibility. While previous studies have largely emphasized responsibility after irregularities occur, this study proposes a preventive model through limited regulation, written documentation, fund separation, transparency, and clear payment deadlines. Through this approach, the article not only assesses the legal risks faced by notaries but also formulates the need for legal reform capable of protecting taxpayers, notaries, PPATs, and local governments.

Based on this background, this study addresses two research problems. First, how legal certainty is provided for notaries who receive BPHTB deposits in the process of transferring land and building rights. Second, how is the legal responsibility of notaries determined when they receive BPHTB deposits but fail to complete the tax payment or the transfer of rights process in accordance with the purpose of the deposit? This study aims to analyze the limits of notarial authority in the practice of BPHTB deposits, examine the legal consequences that may arise, and formulate a more accountable regulatory model for notarial and land administration practices.

RESEARCH METHOD

This study employs a normative legal research method because the issue examined centers on the absence and ambiguity of legal norms concerning notaries' receipt of BPHTB deposits. Normative legal research is used to assess the consistency of legal rules, interpret the limits of authority of public officials, and explain the legal consequences of practices that have developed in society. Under this research model, the analysis is not directed toward the statistical measurement of notarial behavior but rather toward legal reasoning based on relevant norms, principles, doctrines, and judicial decisions.

The approaches used in this study include statutory, conceptual, and case approaches. The statutory approach examines Law Number 2 of 2014 concerning the Office of Notary, the Indonesian Civil Code, the Indonesian Criminal Code, Government Regulation Number 24 of 1997 concerning Land Registration, Government Regulation Number 37 of 1998 concerning the Office of Land Deed Officials, Law Number 1 of 2022, and regional regulations relevant to BPHTB. A conceptual approach was used to analyze the concepts of authority, legal certainty, legal responsibility, legal protection, and the precautionary principle. A case approach is used to understand the patterns of legal risk when tax funds or client deposits are not used in accordance with their original purpose.

The legal materials in this study consist of primary, secondary, and tertiary ones. Primary legal materials include statutory regulations and court decisions related to notaries, Land Deed Officials, the transfer of land rights, local taxes, and legal responsibility. Secondary legal materials included legal textbooks, journal articles, research findings, and scholarly doctrines discussing notarial, administrative, land, and tax laws. Tertiary legal materials were used to support terminological explanations where necessary.

The technique for collecting legal materials is library research. All legal materials are classified based on their relevance to two main issues, namely legal certainty in the receipt of BPHTB deposits and the responsibility of notaries for such deposited funds. The analysis was carried out qualitatively using grammatical, systematic, and teleological interpretations. Grammatical interpretation is used to read the meaning of legal norms based on their textual formulation, systematic interpretation is used to connect the norms governing the notarial office, land affairs, and taxation, and teleological interpretation is used to understand the objectives of legal protection, orderly administration, and tax compliance. Conclusions are drawn deductively, moving from general norms concerning the authority and responsibility of public officials to the specific issue of BPHTB deposit practices involving Notaries.

RESULTS AND DISCUSSION

The Position of Notaries and Land Deed Officials (PPAT) in the Transfer of Land Rights

In the Indonesian legal system, a notary is a public official with the authority to draw up authentic deeds. Attributive authority means that such authority is granted directly by statutory regulations rather than arising from custom or public trust. Article 15 of the Law on Notary Office provides the legal basis for notaries to draw up authentic deeds concerning acts, agreements, and stipulations required by statutory regulations or desired by the parties. In this context, the notary is responsible for formally recording the intent of the parties in a deed that satisfies legal formalities and provides strong evidence.

In the field of land affairs, a notary' sposition must be distinguished from that of a Land Deed Official (Pejabat Pembuat Akta Tanah/PPAT). A PPAT has the specific authority to prepare deeds as evidence of certain legal acts concerning land rights or ownership rights over apartment units. PPAT deeds serve as the basis for registering changes in juridical data at the land offices. Therefore, in the transfer of rights through sale and purchase, grants, exchanges, contributions to a company, and other forms of transfer, PPAT deeds function as registration instruments. This distinction is important because notaries may draw up civil deeds that precede the transfer of rights, such as sale and purchase binding agreements or powers of attorney, whereas the administrative transfer of land rights requires a PPAT deed.

Ardhita and Yunanto (2023) emphasize that the authority of notaries to draw up deeds related to land affairs must be understood proportionally, as not all land-related acts fall within the authority of notaries. This argument is relevant to the practice of BPHTB deposits because the act of receiving and managing tax funds is not part of preparing authentic deeds. Drawing up deeds and managing client funds are two distinct legal actions. A deed relates to official authority, whereas fund management relates to a civil legal relationship and responsibility arising from trust.

The transfer of land and building rights also includes both material and formal requirements. Material requirements relate to the legal capacity of the parties, the validity of the object, the authority of the seller, and the eligibility of the buyer to become the holder of the right. Formal requirements relate to the execution of a deed before an authorized official and the registration of the transfer of rights at the land office. BPHTB payment falls within the sphere of supporting administrative requirements, as a deed of transfer cannot be fully processed if the required proof of tax payment is unavailable. Thus, notaries or PPATs are interested in ensuring the availability of proof of BPHTB payment, but such interest is not identical to the authority to receive tax funds.

The distinction between the obligation to verify proof of payment and the act of receiving deposited funds constitutes the starting point for legal certainty. Public officials may refuse or postpone the signing of a deed if tax requirements have not been fulfilled, but receiving funds to pay taxes is an additional act that must have its own legal basis. If such a basis is not established in writing, the evidentiary position becomes weak when a dispute arises. In notarial practice, this type of evidentiary weakness often occurs because transactions are based on verbal trust, while the deposited funds may involve substantial economic value.

BPHTB as a Local Tax Obligation in Land Transactions

The BPHTB is a tax imposed on the acquisition of rights to land and/or buildings. Following the transfer of BPHTB into the category of local taxes, local governments obtained the authority to regulate BPHTB collection through regional regulations within the limits set by law. Law Number 1 of 2022 updated the fiscal relations between the central and local governments, including the regulation of local taxes. Within this framework, BPHTB functions not only as an instrument of local revenue but also as part of the administrative governance of land rights transfer.

The object of BPHTB is the acquisition of rights over land and/or buildings, whereas the tax subject is an individual or legal entity acquiring such rights. Rights may be acquired through sale and purchase, grants, inheritance, exchange, contribution to a legal entity, implementation of a court decision, or other legal grounds. In the context of sale and purchase transactions, the BPHTB obligation generally rests with the buyer, as the party acquiring the right. The position of the taxpayer is important because the tax payment obligation cannot normatively be transferred to the notary merely because the notary assists in the administrative process of the transaction.

At the local level, Denpasar City Regional Regulation Number 5 of 2023 concerning Local Taxes and Regional Levies serves as an example of how local governments regulate local taxes, including BPHTB. Regional regulations usually contain provisions on tax objects, subjects, bases, rates, collection procedures, and certain facilities. The Denpasar City Government also issued Denpasar Mayor Regulation Number 2 of 2025 concerning the BPHTB exemption for low-income communities. These regulations indicate that BPHTB is increasingly connected to public service policy, fiscal justice, and easier access to land ownership.

Although local tax regulations have become increasingly detailed, they generally do not address the practice of depositing BPHTB funds with notaries. Local tax regulations govern taxpayer obligations, payment mechanisms, and the authority of local governments;however, they do not provide a clear legal status for funds entrusted to notaries. This absence of regulation creates a legal risk. Local governments require timely and accurate tax payments; clients require accessible services; and notaries require clear limits of authority so that they are not placed in the position of managing funds without an official legal basis.

Bonita (2021) positions BPHTB as an instrument of business law and taxation that must be understood in relation to the acquisition of rights over land and buildings. In practice, the public's understanding of BPHTB remains inadequate. People frequently entrust the entire transaction process to notaries because they regard them as parties who understand the procedures. Sociologically, this tendency is understandable; however, legally, a clear distinction remains necessary between the provision of legal services, granting of administrative authorization, and receipt of tax funds.

Legal Qualification of BPHTB Deposit Practices

The practice of depositing BPHTB funds with notaries essentially arises from trust. Clients entrust a certain amount of money to notaries with the intention that the funds will be used to pay the BPHTB in a specific transaction. From a civil law perspective, this relationship may be construed through the concepts of authorization and deposit. If a client authorizes a notary to pay the BPHTB, the notary acts as an attorney-in-fact who is required to perform the mandate within the granted limits. If the construction is one of deposit, the notary acts as a depositary who is obliged to safeguard and use the funds in accordance with the agreed-upon purpose.

Both constructions indicate that the receipt of BPHTB funds does not originate from an official authority but from a civil agreement. This means that when a notary receives funds, their legal position cannot be sufficiently explained as a deed-making public official. The notary also becomes a legal subject who bears obligations toward the client based on the agreement. Therefore, written evidence is crucial. Without clear authorization, a receipt, or a deposit agreement, the parties will face difficulties in proving the amount of funds, the purpose of the deposit, the deadline for payment, and the obligation to provide proof of payment.

In ideal practice, BPHTB deposits must not be commingled with notarial honoraria, office operational funds, or personal funds. These funds have a specific purpose, namely, tax payments. Commingling funds may give rise to allegations of misuse, even if there was no initial intention to unlawfully appropriate the funds. Therefore, the principle of fund separation must be regarded as the minimum form of prudence. A notary who receives such deposits should be able to demonstrate the flow of funds from receipt and payment to the delivery of proof of payment to the client.

Hidayat (2018) shows that the authority of Notaries/PPATs to receive BPHTB payment deposits is an issue that requires limitations. A notary cannot position themselves as a party free to manage tax funds. The notary may only assist based on the client's intent, and such assistance must be provided through an accountable mechanism. Thus, the core issue is not the total prohibition of administrative assistance but the absence of legal standards that make such assistance safe for both clients and public officials.

Utami (2019) is also relevant in explaining that a deed of transfer of rights over land and/or buildings whose BPHTB has not been paid may create potential liability for Notaries/PPATs. Although the validity of a sale and purchase agreement may be debated under civil law, the registration process and the smooth administration of the transfer of rights still depend on the fulfillment of tax obligations. If a notary receives the funds but fails to make the payment, the resulting administrative obstacle cannot simply be imposed on the client.

Therefore, the legal qualification of BPHTB deposit practices is dual in nature. On the one hand, the practice constitutes an additional service arising from public demand.However, it gives rise to serious legal responsibilities because it concerns client funds and fiscal obligations. This dual relationship requires a regulatory approach that is not extreme in nature. The state does not need to immediately transform notaries into tax collectors; however, it does need to regulate payment assistance mechanisms if such practices continue to occur in society.

Legal Certainty for Notaries Receiving BPHTB Deposits

Legal certainty requires that the rights, obligations, and limits of authority be known in advance by the parties. In the context of BPHTB deposits, legal certainty has not been adequately achieved because notaries do not have an explicit legal basis for receiving and managing tax funds, even deposits continue to be made. This ambiguity creates a paradox. If a notary refuses to receive the deposit, the client may consider the service incomplete; however, if the notary receives the deposit without clear standards, the notary bears substantial legal risk.

The theory of authority helps to explain this problem. Every action of a public official should be based on attribution, delegation, or mandate. The authority to draw up authentic deeds is an attributive authority granted by the Law on Notary Offices. However, the authority to receive BPHTB funds is not textually found within the attributive norm. There is no delegation or mandate from local governments to notaries as managers of tax funds. Therefore, the receipt of BPHTB deposits cannot be qualified as a public authority for notaries. It is more accurately understood as a civil legal act attached to the relationship between a notary and a client.

Consequently, legal protection for notaries depends on the quality of civil documentation they prepare. If there is a clear deposit agreement or power of attorney, the notary has the evidentiary grounds to show that the funds were received for a specific purpose and used in accordance with the mandate. If no document exists, the notary's position becomes weak when the client claims that the funds were not paid or used properly. In such circumstances, the absence of legal norms becomes an evidentiary risk that may harm both parties involved.

Legal certainty for clients is also not optimal. Clients who deposit funds are often in a position to fully entrust the payment process to the notary. If the funds are not paid, clients may suffer double losses: the transaction is delayed and the funds may potentially be lost. Although civil lawsuits and criminal reports are available, these mechanisms are repressive and time-consuming. A more ideal form of protection is preventive protection through standards for receiving deposits, receipts, payment deadlines, and proof of payment validation, which must be delivered promptly.

Legal certainty is also related to the interests of local governments. Local governments are interested in ensuring that BPHTB is paid correctly, transparently, and on time. If tax funds remain in the hands of intermediaries without a supervisory mechanism, the objective of local tax collection may be disrupted. Therefore, legal certainty in BPHTB deposit practices must encompass three dimensions: certainty regarding notarial authority, client protection, and local tax revenue.

Widiyono and Khan (2023) emphasize that legal certainty in the acquisition of land rights is an important aspect of national land law. In the context of this article, certainty in the acquisition of rights is determined not only by the validity of certificates or legality of deeds but also by the orderly fulfillment of tax obligations that serve as administrative prerequisites. If the deposited BPHTB funds are not paid, the legal certainty expected from the deed and registration may be delayed. Thus, legal certainty regarding BPHTB deposits must be understood as part of broader legal certainty in land affairs.

Legal Responsibility of Notaries for Deposited Funds

The responsibilities of notaries who receive BPHTB deposits can be classified as civil, administrative, ethical, and criminal. Civil responsibility arises when a notary fails to fulfill obligations arising from authorization or deposit. If a notary agrees to pay the BPHTB but fails to do so, the client may claim a breach of contract because the agreed performance has not been carried out. In addition to breach of contract, the client may also rely on the basis of unlawful acts if the notary’s conduct is considered to violate propriety, prudence, or the client’s subjective rights.

Civil responsibility requires proof of a legal relationship, an unfulfilled obligation, loss, and a causal relationship between the notary’s negligence or fault and the client’s loss. In the context of BPHTB funds, such evidence may include receipts for funds, messages or letters requesting payment, service agreements, powers of attorney, proof of payment that was never provided, and evidence that the transfer process was obstructed. Therefore, documentation serves as a means of protection for both parties involved. Proper documentation not only assists clients in claiming their rights but also protects notaries when they have performed their duties in accordance with the authorization granted to them.

Administrative and ethical responsibilities arise because notaries, as public officials, are bound by official duties. The Law on Notary Office requires notaries to act trustworthily, honestly, carefully, independently, impartially, and to protect the interests of the parties involved. Receiving deposited funds without clear governance may be viewed as contrary to the duty to act cautiously. Commingling client funds with personal funds may be viewed as contrary to trustworthiness and professionalism. Failure to provide information regarding the use of funds may be regarded as contrary to transparency in service delivery.

Ethically, the notarial office is a position of trust. Society entrusts high-value economic transactions to notaries because it expects deeds and administrative processes to be carried out properly. If deposited funds are misused, the harm does not only affect a particular client but also damages the credibility of the profession. Therefore, professional organizations and supervisory councils must regard the management of deposited funds as part of the integrity of the office, even though specific norms concerning BPHTB have not yet been expressly regulated.

Criminal responsibility constitutes the most serious form of liability. Criminal responsibility may arise if a notary intentionally uses deposited funds for personal interests, creates the appearance that payment has been made, or engages in deceitful conduct that harms the client. Lestari (2020) shows that deposited tax money may develop into an embezzlement case when funds under a notary’s control are not paid according to their intended purpose. Arsanti and Putrijanti (2024) further demonstrated the risk of criminal liability in the field of taxation when the misuse of tax funds is accompanied by falsification or the use of invalid proof of payment.

However, not every failure to pay the BPHTB should be immediately classified as a criminal offense. In legal analysis, it is necessary to distinguish between administrative negligence, breach of contract, and malicious intent to unlawfully appropriate funds. This distinction is important to ensure that law enforcement is not excessive while still providing effective protection for victims. If the failure occurs due to an administrative error that can be corrected and there is no intent to appropriate the funds, civil or administrative settlement may be more proportionate. Conversely, if there is unlawful appropriation of funds, falsification of evidence, or fraud, criminal responsibility becomes relevant.

Kasman, Khairani, and Syofiarti (2025) emphasize that the responsibility of PPATs in BPHTB payment in land and building sale and purchase transactions must be placed within the framework of legal certainty. Prihandini and Cahyarini (2024) also underline that the correct calculation of BPHTB is the responsibility of the relevant officials. These two studies strengthen the argument that notaries or PPATs cannot disregard tax aspects in the transfer of rights. However, such involvement must be placed within clear governance avoid becoming a new source of dispute.

Legal Protection of the Parties and Risk Mitigation Model

Legal protection in BPHTB deposit practices must include both preventive and repressive measures. Preventive protection aims to prevent disputes before they occur, whereas repressive protection aims to resolve disputes after losses. In the context of this article, preventive protection is far more important because BPHTB funds often have substantial value, and the transfer of rights process depends heavily on the timely payment of taxes. If prevention fails, legal settlement after losses will require time, cost, and complex evidentiary processes.

Preventive protection can be implemented through the use of written documents. Every receipt of BPHTB deposits should be set out in a power of attorney or deposit agreement that contains the identities of the parties, transaction object, amount of funds, purpose of the funds, payment deadline, obligation to submit proof of payment, and consequences if the obligation is not fulfilled. A receipt for funds should not be drafted in general terms only; it must state that the funds are received specifically for the payment of BPHTB on a particular object. The clearer the content of the document, the smaller the room for dispute regarding the purpose and scope of the deposit.

Preventive protection also requires fund separation. Client deposits should not be placed in the notary's personal account or in an office operational account that is commingled with the honoraria. Fund separation is a minimum principle of accountability that demonstrates that the funds do not belong to the notary public. If no special account has yet been regulated, notaries should at least maintain separate records and preserve proof of payment transaction. In the long term, regulations may consider the use of special escrow accounts for client deposits in land transactions.

BPHTB payments must also be made through official channels and within a reasonable period. Once the funds are received, the notary must not delay the payment without a justifiable reason. Proof of payment or validation must be promptly delivered to the client and stored in a transaction file. This step is important because proof of payment serves as the link between the civil relationship of the deposit and the administrative obligation of taxation. Without such proof, the client cannot confirm that the tax has been paid and that the transfer of rights process can proceed.

Repressive protection is necessary when irregularities occur. Harmed clients may file civil lawsuits to seek the return of funds and compensation for losses. The client may also report an official violation to the supervisory council if the notary's conduct relates to a breach of professional obligations. If there are elements of embezzlement, fraud, falsification, or intentional misuse of funds, criminal proceedings may be initiated. This repressive mechanism should be understood as a last resort after preventive measures fail.

From the perspective of legal reform, the risk mitigation model should not depend solely on the individual prudence of a notary. Professional standards or regulations are needed to govern the practice of assisting BPHTB payments in a limited manner. Such regulations may affirm that notaries are not tax collectors but may assist in payment based on written authorization from the taxpayer. The regulations may also contain obligations regarding fund separation, issuance of receipts, payment within a specific period, delivery of proof of validation, and administrative-professional sanctions in the event of violations. This model is more realistic than completely prohibiting a practice that is still needed by society.

Sitompul (2022) and Lubis (2022), in Jurnal Smart Hukum, demonstrate that issues of land registration and certificate cancellation are often related to orderly administration and the quality of institutional authority implementation. The relevance of these two studies lies in the idea that the certainty of land rights cannot be separated from procedural order. In BPHTB deposit practices, the orderly procedure for tax payment is a key link in determining the smoothness of land administration. Therefore, written standards for BPHTB deposits are part of a broader effort to strengthen legal certainty in land affairs.

Direction for Reforming the Regulation of BPHTB Deposits

The direction of legal reform must balance these three interests. The first is taxpayers' interest in obtaining services that are accessible, transparent, and secure. In land transactions, the public often faces complex documents and procedures that are not always easy to comprehend. The second is the interest of local governments in ensuring that BPHTB is paid correctly and on time. The third is the interest of the notarial profession in obtaining clear limits of authority so that additional services do not become a source of criminalization or ethical violation.

A regulatory model that may be considered is the limited recognition of assistance in BPHTB payments. Limited recognition means that notaries are not granted the status of tax collectors and do not assume the taxpayer's obligation. Notaries may only assist with payments based on written authorization from the client. Under this model, tax responsibility remains with the taxpayer, while the notary's responsibility is limited to carrying out the authorization or deposit arrangement honestly, transparently, and accountably.

Such regulations may be incorporated through amendments or additional provisions in the regulations governing the notarial office, PPAT regulations, or professional technical guidelines. Its substance may include the obligation to prepare fund receipt documents, prohibition against using deposited funds for other purposes, obligation to separate funds, obligation to make payments through official channels, obligation to provide proof of payment, and obligation to retain transaction documents. The regulation should also contain gradual sanctions, ranging from warnings, the obligation to return funds, ethical examination, and recommendations for law enforcement where criminal elements are present.

From the perspective of local governments, integrating the BPHTB payment system with taxpayer accounts or electronic channels may reduce the need for cash deposits to be made. If the system enables clients to pay directly with notarial assistance without handing over funds to the notary, the risk of misuse decreases. Notaries may then act as providers of legal guidance and administrative assistance rather than as fund holders. Payment digitalization should be directed toward strengthening transparency, not merely transferring manual procedures into electronic channels.

In the short term, before specific regulations are established, the principle of prudence must serve as a minimum standard. Notaries should refuse deposits whose source and purpose are unclear, avoid receiving large amounts of cash without proper documentation, prepare detailed receipts, deposit the funds promptly, and provide validation proof to the client. If any obstacle to payment arises, the notary must immediately provide a written notification. These measures do not eliminate the regulatory gap, but they can reduce legal risks and strengthen the parties' evidentiary positions.

With this construction, legal certainty does not merely refer to the existence of written norms but also to the clarity of each party's role. Taxpayers remain responsible for BPHTB; notaries may provide limited administrative assistance based on authorization; local governments obtain payment transparency; and clients receive protection for the funds they entrust to notaries. At this point, the theories of authority, legal certainty, legal responsibility, and legal protection converge to provide a practical solution that can be applied to land transactions.

Table 1. Normative Matrix on the Practice of BPHTB Deposits with Notaries

Aspect	Current Legal Construction	Legal Implications	Regulatory Needs
Authority	The Law on Notary Office provides authority for notaries to draw up authentic deeds, but it does not confer authority to manage BPHTB funds.	The receipt of deposited funds may be legally questioned as an act that exceeds the authority attached to the notarial office.	The status of payment assistance should be clarified as a service carried out on the basis of written authorization.
Legal Relationship	The deposit of funds is more appropriately construed as a civil legal relationship arising from authorization or a deposit arrangement.	A notary may be subject to a civil lawsuit on the grounds of breach of contract or an unlawful act if the deposited funds are not paid as intended.	Written instruments should include a power of attorney, receipts, and deposit agreements.
Fund Administration	There is currently no established standard requiring the separation of client funds from the notary's personal funds or office operational funds.	The commingling of funds increases the risk of disputes, allegations of embezzlement, and breaches of professional ethics.	Separate accounts or separate records, proof of payment, and reports to clients regarding the use of funds.
Client Protection	Clients entrust funds to notaries based on trust and the need for efficient service delivery.	Legal and financial losses may arise when BPHTB payment is delayed, underpaid, or not remitted as required.	A clear payment deadline, transparency, payment validation, and written notification in the event of any obstacles to payment.
Sanctions	Sanctions remain fragmented across civil law, criminal law, administrative regulations governing the notarial office, and professional codes of ethics.	Law enforcement tends to operate retrospectively, after losses have already occurred.	Specific and progressive administrative-professional sanctions should be established for the misuse of deposited funds.

CONCLUSION

The practice of depositing BPHTB funds with notaries in the transfer of land and building rights does not yet have a clear regulatory basis under the Law on Notary Office, PPAT regulations, or local tax regulations. Notaries possess attributive authority to draw up authentic deeds and, in certain capacities as PPATs, to prepare land deeds that serve as the basis for registering the transfer of rights. However, such authority does not explicitly include the receipt, custody, or management of clients' BPHTB funds. Therefore, the deposit practice that has developed on the basis of trust and service efficiency creates a regulatory gap that results in legal uncertainty for notaries, clients, and local governments as tax recipients.

The responsibility of notaries who receive BPHTB deposits may give rise to legal consequences in the realms of civil law, administrative law, professional ethics and criminal law. Under civil law, failure to remit funds may be construed as a breach of contract or an unlawful act. From an administrative and ethical perspective, untrustworthy, non-transparent, or insufficiently careful conduct may violate official duties. Under criminal law, the misuse of deposited funds may fulfill the elements of embezzlement, fraud, or other criminal offenses if accompanied by the intent to unlawfully appropriate the funds. Therefore, specific regulation is needed to recognize BPHTB payment assistance in a limited manner based on written authorization, accompanied by fund separation, detailed receipts, payment deadlines, validation proof, and clear professional sanctions. Before such regulations are established, notaries must apply the principle of prudence through written documentation, transparency in the use of funds, and prompt payment through official channels to ensure legal protection for all parties.

REFERENCES

Adjie, H. (2015). Hukum Notaris Indonesia: Tafsir tematik terhadap Undang-Undang Jabatan Notaris. Refika Aditama.

Ardhita, B. C. K., & Yunanto, Y. (2023). Juridical analysis of the implementation of notary public's authority in making deeds related to the land sector. SIGn Jurnal Hukum, 5(2), 312-323. https://doi.org/10.37276/sjh.v5i2.298

Arsanti, A. A., & Putrijanti, A. (2024). Pertanggungjawaban hukum terhadap PPAT yang melakukan tindak pidana korupsi di bidang perpajakan. Notarius, 17(2), 609-624. https://doi.org/10.14710/nts.v17i2.48667

Bonita, S. (2021). Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB). Indonesia of Journal Business Law, 1(1), 1-6. https://doi.org/10.47709/ijbl.v1i1.1283

Hadjon, P. M. (1987). Perlindungan hukum bagi rakyat Indonesia. Bina Ilmu.

Hidayat, R. (2018). Kewenangan Notaris/PPAT dalam menerima penitipan pembayaran pajak Bea Perolehan Hak atas Tanah dan Bangunan. Acta Comitas, 3(3), 401-411. https://doi.org/10.24843/AC.2018.v03.i03.p02

Kasman, R. P., Khairani, & Syofiarti. (2025). Tanggung jawab Pejabat Pembuat Akta Tanah (PPAT) dalam pembayaran pajak Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB) atas transaksi jual beli tanah dan/atau bangunan di Kota Padang. Unes Journal of Swara Justisia, 8(4), 896-912. https://doi.org/10.31933/xg9r0171

Lestari, M. (2020). Tanggung jawab notaris atas penggelapan titipan uang pajak: Analisis Putusan Pengadilan Tinggi Surabaya Nomor 663/PID/2017/PT.SBY. Indonesian Notary, 2(2).

Lubis, M. A. M. (2022). Pembatalan sertifikat hak atas tanah akibat kelalaian BPN dan sebagai pelaksana putusan pengadilan. Jurnal Smart Hukum (JSH), 1(1), 108-118. https://doi.org/10.55299/jsh.v1i1.141

Peraturan Daerah Kota Denpasar Nomor 5 Tahun 2023 tentang Pajak Daerah dan Retribusi Daerah.

Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah.

Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah.

Peraturan Walikota Denpasar Nomor 2 Tahun 2025 tentang Pembebasan Bea Perolehan Hak atas Tanah dan Bangunan bagi Masyarakat Berpenghasilan Rendah.

Prihandini, A. D., & Cahyarini, L. L. (2024). Peran tanggung jawab PPAT dalam perhitungan pajak BPHTB demi mewujudkan kepastian hukum. Notarius, 16(3), 1294-1308. https://doi.org/10.14710/nts.v16i3.41297

Republik Indonesia. (2014). Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.

Republik Indonesia. (2022). Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah.

Sitompul, N. R. (2022). Pendaftaran tanah yang tidak memiliki alas hak melalui pendaftaran tanah sistematis lengkap. Jurnal Smart Hukum (JSH), 1(1), 173-180. https://doi.org/10.55299/jsh.v1i1.147

Utami, P. S. (2019). Pertanggungjawaban Notaris/PPAT terhadap akta pemindahan hak atas tanah dan/atau bangunan yang BPHTB-nya belum dibayar. Jurnal Wawasan Yuridika, 3(2), 194-209. https://doi.org/10.25072/jwy.v3i2.282

Widiyono, T., & Khan, M. Z. K. (2023). Legal certainty in land rights acquisition in Indonesia's national land law. Law Reform, 19(1), 128-147. https://doi.org/10.14710/lr.v19i1.48393