

Penyelesaian kredit bermasalah pada Bank pemerintah dalam kerangka hukum keuangan negara setelah berlakunya peraturan pemerintah nomor 33 tahun 2006 tentang perubahan atas Peraturan Pemerintah no 14 tahun 2005 tentang tata cara penghapusan piutang negara/daerah

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Abstrak

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Perbankan secara umum mempunyai peran vital bagi urat nadi perekonomian, perannya dalam pembangunan sebagai alat transmisi kebijakan moneter. Secara khusus, perbankan juga berperan sangat vital dalam penyelenggaraan transaksi pembayaran, baik nasional maupun internasional. Sehingga citra perbankan dalam masyarakat menjadi sangat penting dijaga untuk menumbuhkan kepercayaan pada dunia perbankan di Indonesia. Pembentukan Badan Usaha Milik Negara (BUMN) merupakan tujuan filosofis dari Undang-Undang Dasar 1945, Pasal 33, khususnya ayat (2) dan (3). Dengan pengertian bahwa badan usaha milik negara tersebut menguasai cabang-cabang produksi yang sangat vital bagi hajat hidup orang banyak dan untuk memenuhi seluruh kebutuhan masyarakat yang belum dapat dikelola oleh pihak swasta, dan menjadikan BUMN, baik yang berbentuk non-bank maupun bank, sebagai agen pembangunan (agent of development). Penyertaan modal, yang bersumber dari Anggaran dan Pendapatan Belanja Negara, yang dilakukan oleh Negara melalui Pemerintah pada BUMN membawa implikasi terhadap pengelolaan kekayaan BUMN sebagai entitas badan hukum yang berdiri sendiri, sehingga menimbulkan pemahaman bahwa asset BUMN adalah asset Negara, secara otomatis piutang BUMN pun adalah piutang Negara dan pengelolaannya pun oleh Negara, bukan berdasarkan pada prinsip-prinsip perusahaan yang sehat. Tingginya tingkat kredit bermasalah (non performing loan) pada bank BUMN menimbulkan reaksi Pemerintah dengan mengeluarkan Peraturan Pemerintah Nomor 33 Tahun 2006 tentang Perubahan Atas Peraturan Pemerintah Nomor 14 Tahun 2005 tentang Tata Cara Penghapusan Piutang Negara/Daerah, yang sebelumnya telah mendapat dasar hukum melalui Fatwa Mahkamah Agung (Fatwa MA) Nomor WKMA/Yud/20/VIII/2006 tanggal 16 Agustus 2006, yang menekankan bahwa penyertaan modal BUMN merupakan ?pemisahaan kekayaan negara? dari APBN, sehingga pembinaan dan pengelolaannya tidak didasarkan pada sistem APBN melainkan didasarkan pada sistem perusahaan yang sehat menurut UU Perseroan Terbatas dan UU BUMN. Berdasarkan pada Peraturan Pemerintah tersebut diatas, maka piutang BUMN bukan lagi dianggap sebagai piutang Negara. Penanganan kredit bermasalah (NPL) bank BUMN diselesaikan menurut kebijakan bank BUMN itu sendiri dan tidak diserahkan lagi kepada Negara.

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ABSTRACT

Banking in general give an important role for the economic matters, the role is as the device of the monetary policy transmission. Specifically, banking also give a vital role for the payment transaction, in national or international. Therefore, the image of the banking in society become very important to preserve the trust of the banking system in Indonesia. The philosophy of the history of the state-owned company as mentioned in Constitution years 1945, in Article 33, especially in point (2) dan (3), can be explained that the state-owned company shall dominate all the vital production for the people and to fulfill the needs of the people that can

not be dominated by the private sector, and also made the state-owned company, as well as the bank and non-bank, as the agent of development. The participation of the Capital from the Earnings and Expenditures of the National Budget (APBN) by the State through the government in the state-owned company brought an implication to the management of the asset of the state-owned company as the independent entity of the corporation, and caused a comprehension that the asset of the state-owned company belong to the asset of the state too, in automatically the account receivables of the state-owned company belong to the account receivables of the state too, and will manage by the state, not by the principal of the good corporate governance management. the increase of the non-performance loan in the state-owned bank, reacted by the government by issued the Government Regulation number 33 year 2006 regarding the Alteration of the Government Regulation number 14 year 2005 regarding the Manners of the Remission of the Account Receivables of the state/provincial, based on the instruction of the Supreme Court number WKMA/Yud/20/VIII/2006 dated 16 Agustus 2006, mentioned that the participation of the capital in the state-owned company is "the separation of the state asset" from the APBN, therefore its management not based on the APBN system but based on the corporation system due to the Laws of Limited Liability Company and the Laws of the State-Owned Company. Thus, the account receivables of the state-owned company not belong to the State and the management of the non-performing loan of the State-Owned Company based on the policy of the State-Owned Company itself, not manage by the State anymore., Banking in general give an important role for the economic matters, the role is as the device of the monetary policy transmission. Specifically, banking also give a vital role for the payment transaction, in national or international. Therefore, the image of the banking in society become very important to preserve the trust of the banking system in Indonesia. The philosophy of the history of the state-owned company as mentioned in Constitution years 1945, in Article 33, especially in point (2) dan (3), can be explained that the state-owned company shall dominate all the vital production for the people and to fulfill the needs of the people that can not be dominated by the private sector, and also made the state-owned company, as well as the bank and non-bank, as the agent of development. The participation of the Capital from the Earnings and Expenditures of the National Budget (APBN) by the State through the government in the state-owned company brought an implication to the management of the asset of the state-owned company as the independent entity of the corporation, and caused a comprehension that the asset of the state-owned company belong to the asset of the state too, in automatically the account receivables of the state-owned company belong to the account receivables of the state too, and will manage by the state, not by the principal of the good corporate governance management. the increase of the non-performance loan in the state-owned bank, reacted by the government by issued the Government Regulation number 33 year 2006 regarding the Alteration of the Government Regulation number 14 year 2005 regarding the Manners of the Remission of the Account Receivables of the state/provincial, based on the instruction of the Supreme Court number WKMA/Yud/20/VIII/2006 dated 16 Agustus 2006, mentioned that the participation of the capital in the state-owned company is "the separation of the state asset" from the APBN, therefore its management not based on the APBN system but based on the corporation system due to the Laws of Limited Liability Company and the Laws of the State-Owned Company. Thus, the account receivables of the state-owned company not belong to the State and the management of the non-performing loan of the State-Owned Company based on the policy of the State-Owned Company itself, not manage by the State anymore.]