

Juridical Analysis In Overcoming Obstacles To The Development Of Individual Companies In The Digital Era

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Juridical Analysis In Overcoming Obstacles To The Development Of Individual Companies In The Digital Era

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Abstract, *The Indonesian state is a state based on law (rechstaats) not a state based on force or arbitrariness. Therefore, everything related to state activities from an economic, political, social and cultural perspective will be regulated by law. This research uses an empirical juridical research method using qualitative techniques and the approach method used in this research is a statutory approach and a conceptual approach using literature studies and interviews. The promulgation of the Job Creation Law and Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of Establishment, Changes and Dissolution of Companies which have requirements for UMK are currently known, namely that an Individual Company can be established by 1 person. Obstacles: Individual companies must comply with complex regulations related to data privacy, consumer protection and taxes in the digital era. Solution: Have a strong understanding of applicable regulations and ensure internal systems and processes comply with required compliance standards. Regularly update policies and procedures to ensure ongoing compliance.*

Keywords: Company, Individual, Digital Era

1. INTRODUCTION

The Republic of Indonesia is a state based on law (rechstaats) not a state based on power or arbitrariness. Therefore, everything related to state activities in terms of economy, politics, social, culture will be regulated by law. As written in the objectives of the state in the opening of the 1945 Constitution that the state aims to protect all Indonesian people, advance public welfare, educate the nation's life and participate in implementing world order. In terms of advancing public welfare (people) of course the state has regulations so that these objectives can be achieved properly. In everyday life, humans cannot be separated from economic activities. This economic activity is an activity that involves more than one individual or one organ. Therefore, the formation of the running of economic activities is an organ (individuals and or corporations in more than one number) that need each other and complement each other in the process of economic activities, economic actors who interact with each other cause economic transactions to occur.

Each person can have more than one share as proof of ownership of the company. The responsibility as a shareholder is also the Company has become a member of the community. Even the presence of companies in society has created a new order in the grassroots community (lower society). This order can be in the form of an economic order or a sociological order. The presence of companies in the midst of society certainly plays a fairly important role in the economic system in Indonesia. One of the legal entities that plays an important role in the

economy in Indonesia is a Limited Liability Company. Limited Liability Companies or commonly called Companies can be found almost all over the world including in Indonesia, are legal entities that have different characteristics and traits from other forms of business. One of the characteristics that distinguishes a Limited Liability Company from other business entities can be seen from the doctrine of separate legal entities.

Trade or commerce is the work of buying goods or services from a certain place or time and selling the goods or services at another time with the aim of making a profit. This trading activity is carried out by business actors individually or in groups through business entities. Legal regulations that accommodate trading activities have developed over time by following the development of the trading model itself throughout the world. At the domestic level, the economic growth of a country is also influenced by how well the business growth is run by its citizens. In law there is one aspect that is regulated in relation to trade, namely the forms of business entities that are carried out in trade activities. According to Hughes and Kapoor, who explain the definition of business, namely, an individual activity to carry out organized activities to produce and sell goods and services in order to gain profit with the aim of meeting the needs of society.

In the development of law in Indonesia, precisely in February 2020 the Government completed a draft of new legislation in order to encourage the acceleration of Indonesia's economic growth known as the "omnibus law" or the Job Creation Bill which was then discussed through a plenary meeting in April 2020 by the House of Representatives of the Republic of Indonesia (DPR-RI), the regulation contains many changes to legislation, one of which is Law Number 40 of 2007 concerning Limited Liability Companies. The urgency of the Job Creation Law is due to the need for rapid and precise policy reformulation in order to respond to the dynamics of global change in order to support the rate of economic growth. The presence of the Job Creation Law is expected to influence the economic structure to drive all sectors to encourage economic growth to reach 5.7-6% which is achieved through the creation of quality jobs and increased investment so as to increase income and purchasing power, as well as encourage domestic consumption and production. Jobs will move to other more competitive countries, unemployment will increase, and Indonesia has great potential to fall into the middle-income trap if this is not done

Based on the background description above, the author raises several problems that will be discussed further. The problems are as follows:

1. How are the legal arrangements in facing the challenges and obstacles to the development of Sole Proprietorships in the Digital era?

2. How is the implementation in facing the challenges and obstacles to the development of Sole Proprietorships in the Digital era?
3. What factors are the obstacles/constraints and solutions in facing the challenges and obstacles to the development of Sole Proprietorships in the Digital era?

Based on the formulation of the problem stated above, it can be seen that the objectives of this research are:

1. To find out the legal arrangements in facing the challenges and obstacles to the development of Individual Companies in the Digital era?
2. To find out the implementation in facing the challenges and obstacles to the development of Individual Companies in the Digital era?
3. To find out what factors are the obstacles/constraints and solutions in facing the challenges and obstacles to the development of Individual Companies in the Digital era?

2. LITERATURE REVIEW

Juridical is something that is recognized by law, based on law and something that forms order and has an effect on its violations, juridical is a rule that is considered law or in the eyes of the law its validity is justified, whether in the form of regulations, customs, ethics, even morals which are the basis for its assessment. Basically, a Limited Liability Company is a Company that is established and all of its shares are owned by one person. This Limited Liability Company actually deviates from the principle of a company as a capital association. A company as a capital association is certainly a body established by more than 1 (one) person and is intended as a means to invest and gain profit. Basically, a Limited Liability Company is a Company that is established and all of its shares are owned by one person. This Limited Liability Company actually deviates from the principle of a company as a capital association. A company as a capital association is certainly a body established by more than 1 (one) person and is intended as a means to invest and gain profit. Indonesia. The system of establishment which is established by 1 (one) person in Indonesia has been known first as a Trading Business (UD) or Trading Company but is not a legal entity.

The legal entity status of a sole proprietorship is obtained after being registered with the Ministry of Law and Human Rights and obtaining proof of registration in accordance with Article 7 paragraph 4 of the Job Creation Law. In addition, regarding the process of legal entity status, it has been reaffirmed in Article 6 paragraph 3 and 4 of PP No. 8 of 2021 which states that a sole proprietorship obtains legal entity status after being registered with the Minister and

obtaining an electronic registration certificate. A sole proprietorship that obtains legal entity status will be announced by the Minister on the official website of the directorate general which has duties and functions in the field of general legal administration. In the regulation of a limited liability company, there are 3 (three) organs, namely the Board of Directors, the Board of Commissioners and the General Meeting of Shareholders (hereinafter referred to as the GMS). In their obligations, the three organs have different rights and obligations, the Board of Directors has the authority to run the Company or represent the Company outside or inside the court. The Commissioner has the authority to supervise the actions of the Company carried out by the board of directors, while the shareholders have exclusive authority that is not delegated to the board of directors or commissioners and also have the authority to control the management of the Company's funds carried out by the board of directors through the GMS as an organ of the PT, therefore the shareholders are also responsible if there is a loss in the PT.

Trading Business is also established by 1 (one) person, which is generally only run by businesses that are still simple in terms of capital. Trading businesses are also not legal entities so that there is no separation of assets from the trading business actor, and the responsibility of the trading business actor is also unlimited so that the business actor can be held accountable for the personal assets of the business actor, this is certainly different from a Sole Proprietorship which is a legal entity. The development of the digital era is also increasingly running so fast that it cannot be stopped by humans. This is none other than because we as humans ourselves are the ones who ultimately demand and ask for various things more efficiently and practically. Of course, the rapid progress of the digital era also provides various types of impacts, both positive and negative impacts.

3. RESEARCH METHOD

This type of research is normative legal research supported by empirical research. Normative legal research is also called library research. It is called library research because this research is only aimed at written regulations so that this research requires secondary data. This empirical legal research consists of the word "juridical" which means law is seen as a norm or *das solen*, because it discusses the problems of this research using legal materials. And also comes from the word "empirical" which means law as a social, cultural reality or *das sein*, because in this study primary data obtained from the field is used. So, the empirical legal approach in this study means that in analyzing the problem it is done by combining legal materials (which are secondary data) with primary data obtained from Notaries/PPAT.

The specification or type of research in this thesis is to combine normative legal research (doctrinal) with empirical legal research (sociological). Where in this research will compare between the regulation of ideal norms (das Sollen) of law with the reality that occurs in society (das Sein). Empirical legal research is a legal research method that seeks to see the law in a real sense or can be said to see, examine how the law works in society. So that the data used in this study comes from primary/basic data obtained directly from the community as the first source through field research, which is conducted through interviews and secondary data obtained from primary legal materials, secondary legal materials and tertiary legal materials.

The population in this study is the Batam City Government Office. The determination of the sample in this study uses a purposive sampling method, namely sampling in determining and taking sample members based on considerations of the intent and purpose of the study. So based on the determination of the population above, the sample that will be used as respondents is Government Personnel.

4. RESULTS AND DISCUSSION

1. Legal Regulations in Facing Challenges and Obstacles to the Development of Sole Proprietorships in the Digital Era

The Republic of Indonesia is a state based on law (rechstaats) not a state based on power or arbitrariness. Therefore, everything related to state activities in terms of economy, politics, social, culture will be regulated by law. As written in the objectives of the state in the opening of the 1945 Constitution that the state aims to protect all Indonesian people, advance public welfare, educate the nation's life and participate in implementing world order. In terms of advancing public welfare (people) of course the state has regulations so that these objectives can be achieved properly. In everyday life, humans cannot be separated from economic activities. This economic activity is an activity that involves more than one individual or one organ. Therefore, the formation of the running of economic activities is an organ (individuals and or corporations in more than one number) that need each other and complement each other in the process of economic activities, economic actors who interact with each other cause economic transactions.

Law No. 11 of 2020 concerning Job Creation which was passed was drafted using the Omnibus Law method. Omnibus Law is a concept chosen by the government to combine several regulations into one regulation that is expected to bridge various existing interests by making it simpler. The Minister of Law and Human Rights said that the Omnibus Law is present as a joint effort to simplify regulations. The drafting of the Omnibus Law, especially

Law No. 11 of 2020 concerning Job Creation, according to Yasonna H. Laoly, is an anticipation of the dynamics of global change that requires a quick and appropriate response, namely reformulating policies to accelerate economic growth. Omnibus Law is a new concept used in the legal system in Indonesia. This system is usually referred to as a universal law because it is able to replace several legal norms in one regulation. In general, Law No. 11 of 2020 concerning Job Creation changes several legal norms contained in approximately 80 laws and regulations, consisting of 11 clusters, one of which concerns the convenience, empowerment and protection of MSMEs and ease of doing business which has caused several changes in legal norms, especially those regulated in Law No. 40 of 2007 concerning Limited Liability Companies.

Changes to Law Number 40 of 2007 concerning Limited Liability Companies due to the existence of this article have given rise to new legal norms concerning the status of limited liability companies as business entities in the form of legal entities, as well as provisions concerning the requirements for establishing limited liability companies that apply in Indonesia. With the change in legal norms, this is a real manifestation that there is a change that begins with society, then the law comes to regulate it. Usually technology comes first in people's lives, then followed by the emergence of economic activities and after both activities are running, then the law comes in to regulate the conditions that have been formed. In this case, the role of law is only as a justification or to provide legal certainty for what has happened and the function of the law here is as a function of devotion (*dierende functie*). Law develops following events that occur in a place and is always behind the events that occur (*het recht hint achter de feiten aan*).

2 Implementation in Facing The Challenges And Obstacles Of Developing Sole Proprietorships In The Digital Era

As the Indonesian economy increases in line with the growth of MSMEs, MSMEs through high labor absorption. This makes the government consider the development of MSMEs along with regulatory problems, one of which is through the formation of the Omnibus Law to provide an alternative to fixing problems caused by too many and overlapping regulations. Omnibus Law is a law that changes and revokes various articles in various laws. So that Omnibus Law is a concept for forming a law that mixes some provisions whose regulatory roots are different, into a main regulation that functions as a legal umbrella. The rules that regulate various types of revised legislation at once in one law, one of which is the UUPT. This regulation is Law Number 11 of 2020 concerning Job Creation (UU CK). After the enactment of the CK Law, innovations in Limited Liability Companies were born, where

Article 109 of the Job Creation Law provides an additional definition which reads "A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares or an individual legal entity that meets the criteria for micro and small businesses as regulated in laws and regulations concerning micro and small businesses.

3.Factors Are The Obstacles/Constraints And Solutions In Facing The Challenges And Obstacles In Developing Sole Proprietorships In The Digital Era

A limited liability company, hereinafter referred to as a company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares and fulfilling the requirements stipulated in the law and its implementing regulations. This definition is based on the provisions of Article 1 number (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). The development of a sole proprietorship in the digital era can be faced with various challenges and obstacles. Here are some factors that often become obstacles and their solutions:

a. Resource Constraints

Barriers: Sole proprietorships typically have limited resources in terms of finance, people, and infrastructure.

Solutions: Relying on technology for operational efficiency, such as using business management software, cloud computing for data management, and outsourcing certain functions such as digital marketing.

b. Tight Competition

Barriers: Competition in the digital marketplace is fierce, especially from large companies with large marketing budgets.

Solutions: Focus on a unique competitive advantage, perhaps personalized customer service or specialization in a particular niche. Effective marketing strategies through social media can also help expand reach and competitiveness.

c. Information Security

Barriers: Cybersecurity threats such as customer data theft or malware attacks can threaten operational continuity.

Solutions: Invest in adequate cybersecurity, such as VPNs, firewalls, data encryption, and employee training on information security. Regular system monitoring and updates are also important.

d. Adaptation to Technological Changes

Barrier: Technology changes rapidly, and it can be difficult for sole proprietorships to keep up with the changes.

Solution: Establish a long-term technology development strategy that takes into account industry trends and technological developments. Adopting an agile approach to product and service development can help you adapt more quickly to change.

e. Digital Acceptance and Integration

Barriers: The public or customers may not be fully ready or accepting of the transition to digital platforms or services.

Solutions: Educate customers about the benefits and safety of using digital platforms. Offering responsive and tech-friendly customer service can also increase acceptance.

f. Regulation and Compliance

Barriers: Sole proprietorships must comply with complex regulations related to data privacy, consumer protection, and tax in the digital age.

Solutions: Have a solid understanding of applicable regulations and ensure internal systems and processes meet required compliance standards. Update policies and procedures regularly to ensure ongoing compliance.

g. Risk Management

Constraints: Risks such as system failures, security vulnerabilities, or market changes can impact business performance and reputation.

Solutions: Develop a comprehensive risk management plan, including identification, evaluation, and mitigation of potential risks. Conduct regular risk analysis to anticipate and address issues before they escalate

5. CONCLUSION AND SUGGESTION

1. CONCLUSION

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- a. The substance of the Job Creation Law has changed in its establishment of Limited Liability Companies in Indonesia. Based on the Job Creation Law, the definition of a Limited Liability Company was changed by adding the phrase Individual Legal Entity that meets the criteria for MSMEs as regulated in the MSME Law. Based on the definition of a Limited Liability Company, it is possible for a Limited Liability Company in the form of an individual Legal Entity that meets the criteria for MSMEs.

According to Asikin and Suhartana, a sole proprietorship is defined as a company that is founded, capitalized, and run by one person.

- b. Through the formation of the Omnibus Law provides an alternative to solving problems caused by too many and overlapping regulations. Omnibus Law is a law that changes and revokes various articles in various laws. So that Omnibus Law is a concept for forming a law that mixes some provisions whose regulatory roots are different, into a main regulation that functions as a legal umbrella. The rules that regulate various types of revised legislation at once in one law, one of which is the UUPT. This regulation is Law Number 11 of 2020 concerning Job Creation (UU CK).
- c. A limited liability company, hereinafter referred to as a company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares and fulfilling the requirements stipulated in the law and its implementing regulations. This definition is based on the provisions of Article 1 number (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT).

2. SUGGESTION

From this conclusion, the author can provide several suggestions, namely:

- a. **Strict Regulation:** Develop and implement strict regulations related to the protection of personal data, including the requirement to secure customer data and the ethical use of information. **Reporting Obligations:** Introduce obligations to promptly and transparently report data breach incidents to the relevant authorities and to affected individuals.
- b. **Consumer Protection Standards:** Ensure the adoption of clear consumer protection standards for digital transactions, including compliance with product warranties and the right to return goods.
- c. **Tax Transparency and Compliance:** Ensure greater transparency in tax registration and payment for individual companies, including the obligation to report income accurately. **Digital Financial Regulation:** Encourage the development of appropriate regulations for digital financial transactions, such as cryptocurrency and fintech, to ensure security and fairness.
- d. **Tax Incentives:** Provide tax incentives for technological innovation and strategic partnerships between individual companies and large technology companies or startups.
- e. **Education Programs:** Encourage or subsidize training and education programs to improve digital literacy among small and medium business owners and their staff.

- f. Digital Protection: Strengthening the protection of intellectual property rights in the digital environment to prevent theft and misuse of creative and innovative works.
- g. Market Testing: Implementing a more flexible and adaptive regulatory approach to facilitate the testing and adoption of new technologies in sole proprietorship businesses.
- h. Legal Enforcement: Ensure effective law enforcement against digital law violations, including strong action against cybercrime and data breaches.

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