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The Juridical Review of Property Status over the Assets of an Individual Corporation under Positive Law and Its' Impact on the Indonesian Economy

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ABSTRACT

The Indonesian government has been actively facilitating business operations for both domestic and foreign entrepreneurs, as evidenced by the enactment of Law No. 6/2023, which amends the previous Job Creation Law (Law No. 2/2022) to enhance the business environment in Indonesia. Despite the positive intentions behind the Job Creation Law, there exists a vagueness in the norms regarding property rights for individual companies. This uncertainty has led to confusion among business actors and government officials, particularly concerning the issuance of land rights certificates. The primary aim of this research is to analyze and compare the impact of individual companies, as introduced by the Job Creation Law, on Indonesia's economy. The study seeks to clarify the legal position of property rights over individual company assets and their implications for the national economy. This research employs a normative juridical legal research methodology, utilizing a statutory approach and a conceptual approach. The authors examine relevant laws, regulations, literature, and articles to understand the legal framework surrounding property rights and their economic impact. The findings indicate that individual companies, as part of the Job Creation Law, have a positive influence on Indonesia's national economy. The contribution of micro and small enterprises (MSEs) to the Gross Domestic Product (GDP) has been significant, with their share increasing over the years, demonstrating their vital role in economic stability and growth.

Keywords: *Individual Company, Job Creation Law, Limited Liability Company, Micro and Small Enterprises*

INTRODUCTION

The Indonesian government continues to provide convenience for domestic and foreign entrepreneurs in running their businesses in Indonesia. This is reflected in the Indonesian government's move to pass Law No. 6/2023 on the Stipulation of Government Regulation instead of Law No. 2/2022 on Omnibus Job (hereinafter referred to as Job Creation Law). The existence of Job Creation Law is expected to be able to absorb the widest possible Indonesian workforce amid increasingly competitive competition and the demands of economic globalization.

Job Creation Law serves as the government's effort to create jobs in order to facilitate, protect, and empower cooperatives and micro, small, and medium enterprises, improve the investment ecosystem and ease of business, and central government investment and acceleration of national strategic projects.¹ The provisions on individual companies in Article 109 of the Job Creation amending Law No. 40/2007 (hereinafter referred to as the PT Law) aim to increase the competitiveness of Micro, Small and Medium Enterprises (MSMEs) as one of the pillars of economic growth.

In Article 153A, it is stated that only micro and small-scale businesses can establish an individual company, where the establishment can be done by one person only. This is expected to make it easier for MSEs to apply for funding and business tax incentives. Article 153J also states that the shareholders of an individual company are not personally liable for the company's agreements and losses. This implies that an individual company has its company assets separate from the owner's assets, so that in the event of a legal problem, the owner's assets will not be involved.²

Prior to the Job Creation Law, numerous MSE business actors did not establish legal entities and preferred the form of individual business entities, such as trading companies (PD) or trading businesses (UD). Therefore, MSE business actors were unable to perceive the direct assistance provided by the government, such as ease of funding, tax incentives, ease of business licensing, and so on.³ This is due to most business actors do not register their business. Moreover, the country also loses tax potential from these unregistered individual businesses.⁴

The existence of the Job Creation Law also raises doubts from various parties

¹ M. Bagus Basofi and Irma Fatmawati, "Perlindungan Hukum Terhadap Pekerja Di Indonesia Berdasarkan Undang-Undang Cipta Kerja," *Professional: Jurnal Komunikasi Dan Administrasi Publik* 10, no. 1 (June 21, 2023), <https://doi.org/10.37676/professional.v10i1.3544>.

² Muhammad Waqas and Zahoor Rehman, "Separate Legal Entity of Corporation: The Corporate Veil," *International Journal of Social Sciences and Management* 3, no. 1 (January 21, 2016): 1–4, <https://doi.org/10.3126/ijssm.v3i1.13436>.

³ Murni Safitri and Iswi Hariyani, "Ratio Legis Pendirian Perseroan Perorangan Ditinjau Dari Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Ilmu Kenotariatan* 3, no. 1 (May 31, 2022): 36, <https://doi.org/10.19184/jik.v3i1.34915>.

⁴ Aditya Rachman, Sudaryat Sudaryat, and Amelia Cahyadi, "The Legal Aspects Fulfillment of Tax Responsibilities for Micro and Small Enterprises Established as Individual Company," *JUSTISI* 10, no. 2 (April 30, 2024): 470–88, <https://doi.org/10.33506/js.v10i2.3192>.

regarding individual companies' asset ownership. This was because prior to the Job Creation Law, the legal rules for ownership of company assets were regulated in Law No. 5/1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as the Basic Agrarian Law), where companies did not have property rights over land except for legal entities as regulated in Government Regulation No. 38/1963 concerning the Designation of Legal Entities that May Have Property Rights over Land. The company's status over its land is in the form of a right of use because the Basic Agrarian Law does not allow business entities in the form of legal entities to hold property rights over land.⁵

While the existence of the Job Creation Law has provided a vagueness of norms where individual companies, including business entities in the form of legal entities, can hold property rights to the land they own, or cannot hold property rights to land under the Basic Agrarian Law. The vagueness of norms in issuing certificates of land rights owned by individual companies has created doubts for state officials and MSEs who wish to apply for land rights certificates. Therefore, this research aims to analyze the economic impact of individual companies introduced by the Job Creation Law, while also clarifying the legal status of property rights over their assets and exploring the broader implications for Indonesia's national economy.

RESEARCH METHODOLOGY

The methodology used to compile this research is normative juridical legal research. The authors of this research study examine laws and regulations, literature, and articles related to the legal position of property rights over individual company assets and the impact on the economy in Indonesia.

RESULT AND DISCUSSION

The individual company is a new legal entity term following the issuance of the Job Creation Law to make it easier for micro and small enterprises (MSEs) to run their businesses. Before implementing the Omnibus Law, companies and individuals were different entities. This was because a company is identical to a capital association or shareholders. At the same time, MSEs usually only have their business capital, thus they usually use the form of individual business entities. The individual business entity often used by individual business actors is a trading company (PD) or trading business (UD).⁶ However, suppose MSEs run their business with a formal business entity. In that case, their operations will be more

⁵ Rada Anisa and Agus Supriyo, "Kepastian Hukum Hak Pengelolaan Atas Tanah Badan Pengusahaan Batam Terhadap Pendayagunaan Pulau Rempang," *Wajah Hukum* 8, no. 2 (October 11, 2024): 821, <https://doi.org/10.33087/wjh.v8i2.1504>.

⁶ Munsharif Abdul Chalim et al., "PERAN PEMERINTAH DALAM PENGEMBANGAN KOPERASI MODERN DAN UMKM BERDASARKAN PP NO. 7 TAHUN 2021," *Audi Et AP : Jurnal Penelitian Hukum* 1, no. 01 (January 23, 2022): 21–29, <https://doi.org/10.24967/jaeap.v1i01.1490>.

stable because they can get better access to funding, better profits, and have an impact on increasing state taxes.⁷

Legal Position of Individual Business

A sole proprietorship is a business activity owned by one individual, who is fully responsible for the business. Many owners of MSMEs use the individual business form because it is considered easier to establish and does not require more costs in establishing and running the business.⁸ Article 1, point 1 of the MSME Law explains that micro businesses are business activities carried out by individuals and/or business entities that meet the criteria of micro businesses. Furthermore, in point 2, it explains that small businesses are independent business activities, and are carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or part of medium or large businesses, either directly or indirectly, and meet the criteria for small businesses in the MSME Law.

Under the MSME Law, the division of micro, small, and medium enterprises is based on the net assets owned by the business, excluding the land and buildings where the business is located. Moreover, it divides businesses based on annual sales results, commonly called one year's turnover. Article 6, Paragraph 1 regulates the criteria for micro businesses, which are as follows:

1. Has a maximum net worth of IDR 50.000.000 excluding land and building of the business premises; or
2. Having an annual turnover of at most IDR 300.000.000.

While the criteria for small businesses according to Article 6 Paragraph (2) of the UMKM Law are:

1. Has a net worth of more than IDR 50,000,000 up to a maximum of IDR 500,000,000 excluding land and buildings; or
2. Having an annual turnover of more than IDR 300.000.000 up to a maximum of IDR 2.500.000.000.

Furthermore, the criteria for medium-sized businesses in Article 6, paragraph (3) of the UMKM Law are:

1. Has a net worth of more than IDR 500,000,000 up to a maximum of IDR 10,000,000,000 excluding land and building; or
2. Has an annual turnover of over IDR 2,500,000,000 up to a maximum of IDR 50,000,000,000.

A trading business as one of the types of trading institutions described in the

⁷ Chalim et al.

⁸ Agus Rahmadsyah et al., "Analysis of the Stages of Establishing an Individual Business in the City of Medan," *Asian Journal of Applied Business and Management* 2, no. 2 (May 31, 2023): 273–84, <https://doi.org/10.55927/ajabm.v2i2.4288>.

Decree of the Minister of Industry and Trade No. 23/MPP/KEP/1/1998 concerning Trading Business Institutions in Article 1 Paragraph 3 which explains that a trading institution is an institution or entity that can take the form of an individual or business entity either as an exporter, importer, wholesaler, retail trader, or similar institutions, which in the marketing order of goods and or services, carries out trading activities by moving goods and or services either directly or indirectly from producers to consumers.

A trading business is not required to be established using a notarial deed. This is because establishing a trading business is not regulated like establishing a civil partnership, firm, or CV. However, a trading business can be established using a notarial deed by attaching the following data:

1. Identity Card: The entrepreneur is required to provide a document containing personal identity, such as a ID or passport, that shows the name, date and place of birth, and address, as well as other personal data that is up to date or still valid.
2. Taxpayer Identification Number (NPWP): NPWP is identified numbers given to taxpayers as an administrative requirement for fulfilling their tax rights and obligations. Personal NPWP is one of the requirements for managing an individual NIB because it is related to annual tax reporting to the Directorate General of Taxes.
3. Email and telephone number: Business actors must attach an email and telephone number that can be contacted as one of the requirements for taking care of the deed of establishment at the notary, because the notary is required to have and store the personal data of the confronter. Business actors can then use the email and phone number to apply for an individual NIB through the Online Single Submission (OSS) licensing portal or webpage.
4. Certificate of Business Domicile: A certificate indicating the address of the business domicile can be obtained from the local government office or other relevant institutions.
5. Micro, Small, and Medium Business License (IUMK) (optional): The entrepreneur may attach an IUMK letter if it is deemed necessary by the entrepreneur. The IUMK letter can be obtained from the local sub-district office by filling out the IUMK application form.
6. Business License (SIUP): SIUP is an operational permit required to be owned by business actors as proof that business activities are legal and legitimate. The local Industry and Trade Office issues the SIUP.
7. The business field being run: Business actors must determine what business fields they will run and also select the 2020 Standard Business Field Classification (KBLI). Eventually, the KBLI selection can be used in managing NIB online.

8. Business name.⁹

Accordingly, business actors can register their business through the *Online Single Submission* to obtain a Business License Number (NIB). Business actors in this case are explained in Article 1, number 11 of Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licenses, where business actors can be individuals or business entities.¹⁰ Article 4 states that to start and carry out business activities, business actors must fulfil business licensing or risk-based business licensing requirements.¹¹ The basic requirements for business licensing are explained in Article 5, which includes the suitability of space utilization, environmental approval, building approval, and certificate of function.¹² These basic requirements are directly related to whether the business activity impacts the surrounding environment, whether the business location is in accordance with the regional spatial plan, and whether the building used to carry out business activities has met the stipulated requirements.

A trading business is not a legal entity, but a non-legal entity, because a trading business is no different from an individual business actor in general. Therefore, there is no separation of assets between business actors and trading businesses. Entrepreneurs must also report their business taxes through the individual's Annual Tax Return.

As a practical matter, individual entrepreneurs have property rights over their business assets, so there is no separation of assets or responsibility for the assets they own. The property right can be explained by Article 570 of the Civil Code as the right to use something freely and to the fullest extent possible, and to dispose of it as one wishes, as long as it does not violate the law or the rights of others. However, this is without prejudice to the possibility of revocation of rights in the public interest and adequate compensation based on applicable legal provisions.

Property rights in the Civil Code include two things when viewed in section 2: immovable and movable objects. Article 506 of the Civil Code explains the criteria for immovable objects, which include:

1. The yard land and anything built on the yard land;
2. Milling, except as described in Article 510;
3. Trees and plants rooted in the ground, unharvested fruits of trees, mining products such as coal and coal waste (provided that such

⁹ Anthony Robert Phangestu Abady and Mella Ismelina Farma Rahayu, "Penyuluhan Hukum Pembuatan Akta Oleh Notaris Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris," *Journal on Education* 5, no. 2 (January 25, 2023): 4248–58, <https://doi.org/10.31004/joe.v5i2.1087>.

¹⁰ "Peraturan Pemerintah (PP) Nomor 5 Tahun 2021 Tentang Penyelenggaraan Perizinan Berusaha Berbasis Risiko" (2021), <https://peraturan.bpk.go.id/Details/161835/pp-no-5-tahun-2021>.

¹¹ Peraturan Pemerintah (PP) Nomor 5 Tahun 2021 tentang Penyelenggaraan Perizinan Berusaha Berbasis Risiko.

¹² Peraturan Pemerintah (PP) Nomor 5 Tahun 2021 tentang Penyelenggaraan Perizinan Berusaha Berbasis Risiko.

- products have not been separated and excavated from the ground);
- 4. Shrubs from felled forests and wood from tall trees if not felled;
- 5. Pipes and conduits for draining water from houses and gardens, and generally those attached to gardens or attached to buildings.

In addition, immovable objects can also be classified because of their purpose as stated in Article 507 of the Civil Code:

1. At factories, objects manufactured in factories, mills, ironworks, and similar properties, iron grills, kettles, hot pots, vases, barrels, and other equipment that are part of the factory (if they are not permanently assembled);
2. In a residential dwelling, mirrors, paintings, and other decorative objects affixed to boards or stones form part of a room's walls, railings, or plaster, even if such objects are not installed;
3. In the case of land, a field, a plant used as a natural fertilizer to nourish the soil, a flock of pigeons, a bird's nest that can be consumed before it is collected, and fish in a pond. In a residential dwelling, mirrors, paintings, and other decorative objects affixed to boards or stones form part of a room's walls, railings, or plaster, even if such objects are not installed;
4. Demolished buildings that have been overhauled and can be reused for development;
5. Objects that the owner permanently connects to an immovable object for long-term use.

Objects are considered permanently connected to an immovable object if installed by methods such as excavation, woodworking, or cement-stone installation, or if they cannot be removed without dismantling or damaging the object or part of another immovable object.

Some rights can be categorized as immovable objects according to Article 508 of the Civil Code, including.

1. Cultivation rights and use rights of immovable property;
2. Land dedication right;
3. *Numpang karang* right (a right where someone is allowed to use and build on land that they do not own, typically with the landowner's consent);
4. Business use right;
5. Land interest, whether in the monetary or tangible form;
6. *Sepersepuluhan* right (a traditional revenue-sharing arrangement between a landowner and a land user);
7. Bazaars or markets that are recognized by the government and the privileges associated with the government;
8. Lawsuit to enforce the return or surrender of immovable property.

Meanwhile, according to the Civil Code, movable objects are regulated in Articles 509 to 518, which means objects that can move themselves or be moved, such as ships, motorized vehicles, etc. Several things that are classified as movable objects as determined by law are as follows:

1. Right of use of produce and right of use of movable objects;
2. The right to the promised interest, whether perpetual interest, or life interest;
3. Obligations and claims concerning the amount of money that can be collected and concerning movable property;
4. Evidence of shares or stocks in a money trading partnership, a trading partnership, or a company partnership, even if the relevant movable objects and the company belong to the partnership. Proof of shares or shares is considered movable property, but only against each participant, as long as the partnership is running;
5. Stocks in Indonesian sovereign debt, whether registered in the ledger or certificates, debentures, bonds, or other securities, together with coupons or interest receipts;
6. *Sero-sero* or coupon bonds from other loans, including loans made by foreign countries.

According to the explanation above, one is the right to land ownership. The Basic Agrarian Law guides the legal position regarding land ownership rights. The Basic Agrarian Law explains that individuals can have property rights to land, including:

1. Right of Ownership: The right of ownership to land is the fullest and strongest land right that can be owned by a person. Property rights can also be passed down to heirs. Individuals with Indonesian citizenship or WNI can own land ownership rights. Land ownership rights can be applied for on state land in writing.
2. Cultivation Rights: Cultivation rights are rights to utilize land directly controlled by the State, within a specific period for agricultural, fishery, or livestock businesses. A Cultivation Right can only be granted on land with an area of at least 5 hectares and can be transferred to another party. It is granted for a maximum of 25 years and can be extended for another 25 years.
3. Construction Use Right: A construction use right is a right owned by the right holder to construct and own buildings on land that is not their own, for a maximum period of 30 years. Building use rights can be extended at the right holder's request for a maximum of 20 years and can be transferred or assigned to another party.
4. Right of Use: Right of use is the right to use and/or collect products from land directly controlled by the State or land owned by others, which

authorizes and obligates the holder of the right of use by the official authorized to grant it or in an agreement with the landowner, and does not include lease agreements or land processing agreements. The requirements for the Right of Use application according to Article 51 of PMNA No.9 of 1999 are:

- a. A copy of the applicant's identity, proof of citizenship, and a domicile letter;
- b. Juridical data regarding the land can be in the form of certificates, *girik*, plot letters, letters of evidence of the release of rights and repayment of land purchased from the government, court decisions, and other proof of land acquisition;
- c. Physical data can be in the form of measurement letters or situational images;
- d. The applicant's statement regarding the number of parcels, size, and status of the lands already owned, including the land parcel being applied for.

The granting of usage right must not be accompanied by conditions containing extortion elements. Article 57 of PMNA No.9/1999 states that the right of use can be extended or renewed.

1. Right of Lease: A lease over land may be granted to a person when he is entitled to use land owned by another person for his purposes by paying a sum of money as rent to the owner. The lease agreement between the owner and the lessee must not contain elements of extortion;
2. Right of land clearing;
3. Forest harvesting rights;
4. Other rights not included in the aforementioned rights will be stipulated by law and temporary rights as mentioned in Article 53 of the Basic Agrarian Law.

Legal Position of Limited Liability Company

Law No. 40/2007 on Limited Liability Companies (UU PT) regulates a limited liability company. According to Article 1 of UU PT, a limited liability company is a capital alliance established by two or more persons by an authentic notarial deed. A limited liability company is a legal entity consisting of 3 organs:

1. General Meeting of Shareholders (GMS); GMS is a corporate organ authorized for matters not granted to the board of directors or commissioners in the law and/or the company's articles of association.
2. Council of Directors: The Board of Directors is an organ of the company that is authorized and entirely responsible for the running of the company, in accordance with the purposes and objectives of the company, and represents the company, both inside and outside the court, by the provisions of the articles of association.

3. Council of Commissioners. The council of commissioners is an organ of the company whose duty is to supervise in general and/or specifically, and provide advice to the board of directors per the articles of association.

A limited liability company is a legal entity, meaning assets are separated between the limited liability company and the shareholders. Article 3 of the PT Law explains that the company's shareholders are not personally liable for the agreements made on behalf of the company and are not personally liable for the company's losses exceeding the shares owned.¹³ Based on Articles 7 to 14 of the PT Law, the establishment of a limited liability company must fulfil certain conditions, which are:

1. Establishment Deed: The establishment deed, as a requirement for establishing a limited liability company, is regulated in Article 8 of the PT Law, which is an authentic deed made before a notary. The deed of establishment must contain, among others:
 - a. The company's articles of association; The contents of the company's articles of association are stipulated in Article 15 of the PT Law:
 - 1) Name and domicile of the company;
 - 2) Purpose and objectives and business activities of the company;
 - 3) Period of establishment of the company;
 - 4) The amount of authorized capital, issued capital, and paid-up capital; Article 32 Paragraph 1 of UU PT explains that the establishment of a limited liability company has a minimum authorized capital of IDR 50,000,000 (fifty million rupiah), with issued and paid-up capital of at least 25% of the authorized capital (Article 33 UU PT).
 - 5) Number of stocks, classification of stocks, if any, number of stocks for each classification, rights attached to each stock, and par value;
 - 6) Name and number of members of the Directors Council and Commissioners Council;
 - 7) Determination of the location and procedures for holding the GMS;
 - 8) Procedures for appointment, replacement, and dismissal of members of the Board of Directors and Board of Commissioners;
 - 9) Procedures for the utilization of profit and dividend distribution.
 - b. Other descriptions relating to the establishment of the company. The other description at least contains:
 - 1) The full name, place, and date of birth, occupation, residence, and nationality of the founders of the company, or the name, domicile, and complete address, as well as the number and date of the ministerial decree regarding the legal entity validation of the founders of the company;

¹³ Pemerintah Pusat Indonesia, "Undang-Undang (UU) Nomor 40 Tahun 2007 Tentang Perseroan Terbatas" (2007), <https://peraturan.bpk.go.id/Details/39965>.

- 2) Full name, place, and date of birth, occupation, residence, and nationality of the first appointed member of the Council of Directors and Council of Commissioners;
 - 3) Names of shareholders who have subscribed for shares, details of the number of shares, and par value of shares subscribed and paid up.
2. Ratification by the Minister: The establishment of a limited liability company cannot be done only by making a deed of establishment before a notary, but must also be ratified by the relevant Minister, namely the Minister of Law and Human Rights. The company's founders can authorize the notary to apply online through the Legal Entity Administration System (SABH) portal. The ratification by the Minister of Law and Human Rights is in the form of a Ministerial Decree regarding the ratification of the company's legal entity.
3. Registration. Under the PT Law, the person who organizes the company register after the company has been authorized is the Minister who grants the legal entity authorization and enters the company data directly. The company register contains data about the company, which includes:
- a. Name and location, purpose and objectives, business activities, term of establishment, and capital;
 - b. The complete address of the company;
 - c. Number and date of the deed of establishment and Ministerial Decree regarding the authorization of the company's legal entity;
 - d. Number and date of deed of amendment to the articles of association and Ministerial approval;
 - e. Number and date of the deed of amendment to the articles of association and date of receipt of notification by the Minister;
 - f. Name and domicile of the notary who made the deed of establishment and the deed of amendment to the articles of association;
 - g. Full names and addresses of shareholders, members of the Board of Directors, and members of the Board of Commissioners of the company;
 - h. Number and date of the deed of dissolution or number and date of the court decision on the dissolution of the company that has been notified to the Minister;
 - i. Termination of the company's legal status
 - j. Balance sheet and income statement of the relevant financial year for companies that are required to be audited.¹⁴

A limited liability company is a legal entity identical to a capital partnership and is established by two or more persons by an authentic notarial deed. Based on

¹⁴ Nicky Yitro Mario Rambing, Terms and Conditions for the Legality of Limited Liability Company (PT) Establishment In Indonesia, *Lex Privatum*, Vol. 1, No. 2, 2013.

Article 3 Paragraph 1 of the PT Law, a limited liability company as a legal entity means that there is a separation of assets and legal responsibility between the owner of the shares and the legal entity itself.

A limited liability company as a legal entity means a separation of assets and legal responsibility between the owner of the shares and the legal entity itself. According to the explanation of the Civil Code above, a limited liability company also has the right to own movable and immovable objects. Article 102 Paragraph 1 of the Company Law also explains that what is meant by company assets are all objects, movable and immovable, tangible and intangible, owned by the company.

The difference with property rights owned by individuals is that limited liability companies cannot own property rights to land. This is due to the conditions given to legal entities based on Article 21 of the Basic Agrarian Law and Law No. 38 of 1963 concerning the Designation of Legal Entities that Can Own Land Ownership Rights, so that legal entities that can own land ownership rights are:

1. State banks for building land used for the performance of their functions and for housing land for their employees;
2. Agricultural Cooperative Societies may have property rights over agricultural land if the area does not exceed the limit outlined in laws and regulations;
3. Religious and social institutions can own property rights over land for purposes directly related to religious and social endeavours.

Beyond these land rights, a limited liability company can own and control land rights. This is regulated in Article 4, Paragraph 1 of the Basic Agrarian Law, which states that those who can own land rights include individuals (alone), individuals (together), and legal entities so that a limited liability company can own land rights through procedures and fulfill the conditions as stipulated in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancelling State Land Rights and Management Rights.

A limited liability company may apply for and may be granted a Building Rights Title by submitting a written application for a Building Rights Title, which contains:

1. Information about the applicant:
 - a. In case of an individual: name, age, nationality, place of residence, and occupation, as well as information about his/her wife/husband and dependent children;
 - b. If a legal entity: name, domicile, deed, or regulation of its establishment by the provisions of the applicable laws and regulations
2. Information about the land which includes juridical data and physical data: The basis of control or rights can be in the form of certificates, land ownership document, plot letters, letters of evidence of release of rights

and repayment of land and houses and or land that has been purchased from the government, court decisions, PPAT deeds, deeds of release of rights, and other letters of evidence of land acquisition;

- a. Location, boundaries, and area (if there is a measurement letter or situation drawing, please state the date and number);
- b. Type of land (agricultural, non-agricultural);
- c. Land use plan;
- d. The status of the land (land rights or state land);

3. Any others:

- a. Information on the number of parcels, size, and status of the lands owned by the applicant, including the parcel of land applied for;
- b. Other information considered necessary.

Despite the precise regulation of land ownership rights for limited liability companies, there are still violations committed by the company by reversing the name of the certificate purchased by the company into the name of one of the directors or shareholders in the company.¹⁵ The impact of such violations is that if there is a dispute between shareholders in the future, the company's legal position in claiming its assets becomes weak.

Changes in Asset Ownership Rights Before and After the Job Creation Law

With the issuance of the Omnibus Law on Job Creation, there was a change in the meaning of a company regulated initially in the PT Law. Article 109 of the Omnibus Law changed the definition of a company that previously could only be established by two or more shareholders to be established by only one shareholder, or can be called an individual company. Article 7, paragraph (7) of the Company Law has also changed due to the existence of an individual company, so the provisions that require a company to be established by two or more people do not apply to the individual company:

1. A limited liability company whose shares are wholly owned by the state;
2. Regionally-Owned Enterprise;
3. Village-Owned Enterprise;
4. Limited liability companies that manage stock exchanges, clearing and guarantee institutions, depository and settlement institutions, and other institutions in accordance with the provisions of laws and regulations in the field of capital markets; or
5. Companies that qualify as Micro and Small Enterprises.

Article 32 of the PT Law regarding the authorized capital of the company was

¹⁵ Idrus Maulana Chatiba, Firman Muntaqoa, and Amin Mansyur, "SERTIFIKAT HAK MILIK YANG DIAKUI SEBAGAI ASET PERSEROAN TERBATAS DAN MENJADI JAMINAN HUTANG," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 8, no. 2 (2019): 127–41, <https://doi.org/https://doi.org/10.28946/rpt.v0i0.389>.

also amended so that the decision of the founders of the company can freely determine the amount of the authorized capital of the company. This aims to make it easier for micro and small businesses to have a formal business entity.

The Omnibus Law on Job Creation also inserts ten articles between Article 153 and Article 154, namely Article 153A to Article 153J, to accommodate individual companies, which reads:

1. Article 153A stipulates the provisions for establishing an individual company for micro and small businesses, which can be established by one person and based on a statement of establishment made in the Indonesian language;
2. Article 153B stipulates that the company's establishment statement in Article 153A must contain the purpose and objectives, business activities, authorized capital, and other information relating to the company's establishment and must be registered electronically with the Minister;
3. Article 153C stipulates that the procedure for amending the statement of establishment of an individual company must be through a GMS and notified electronically to the Minister. This indirectly states that shareholders have the same function as GMS in a limited liability company;
4. Article 153D regulates the validity of the actions of shareholders as directors of individual companies in carrying out the company's management for the company's benefit, in line with the aims and objectives of the company;
5. Article 153E stipulates that the founder of an individual company can only establish one company for micro and small businesses within one year, where the individual who establishes the individual company is a person who is capable of performing legal acts according to the Civil Code. In this case, being 21 or being married means being capable. This limitation on establishment is expected to reduce the possibility of individual companies being established to exploit specific policies;
6. Article 153F stipulates that the board of directors of an individual company must prepare a financial report to realize good corporate governance. This implies that the shareholders, in addition to being directors in charge of the company's operations, also serve as the board of commissioners with the task of supervising the company's running.;
7. Article 153G regulates the procedure for the dissolution of an individual company through a GMS, as outlined in a statement of dissolution, and the minister is notified electronically.;
8. Article 153H stipulates that if an individual company no longer meets the criteria in Article 153A, consisting of one shareholder, the individual company must change its status to a limited liability company. The

change in the company's status from an individual to a limited liability company must be carried out per Regulation of the Minister of Law and Human Rights No. 21/2021;

9. Article 153I provides fee waivers related to establishing an individual company legal entity;
10. Article 153J regulates the personal liability of shareholders in an individual company, where the shareholders are not personally liable for agreements made on behalf of the individual company and are not responsible for the company's losses exceeding the shares owned. This provision does not apply if the company has not yet become a legal entity because the requirements for the establishment of the company have not been fulfilled; the shareholder directly or indirectly in bad faith utilizes the company for personal interests; the shareholder is involved in illegal acts committed by the individual company; or the shareholder directly or indirectly unlawfully uses the company's assets, which then makes it difficult for the company to pay off the company's debts.¹⁶

Not only did the PT Law get amended, but the Job Creation Law also changed the criteria for Micro, Small, and Medium Enterprises from what was previously regulated in the MSME Law to Government Regulation Number 21 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises. If seen in Article 35 and Article 36 of the Government Regulation, the criteria for MSEs based on business capital outside the land and building of the place of business are as follows:

1. Micro Business has a maximum business capital of IDR 1,000,000,000;
2. Small businesses have a business capital of more than IDR 1,000,000,000 and a maximum of IDR 5,000,000,000;
3. Medium-sized Enterprises are businesses with a business capital of more than IDR 5,000,000,000 to a maximum of IDR 10,000,000,000.

According to annual sales, MSMEs can be classified as follows:

1. Micro Enterprises have annual sales revenue of at most IDR 2,000,000,000;
2. Small businesses have annual sales revenue of more than IDR 2,000,000,000 and a maximum of up to IDR 15,000,000,000;
3. Medium-sized Enterprises have annual sales proceeds of more than IDR 15,000,000,000 and at most up to IDR 50,000,000,000.

Further rules regarding limited liability companies are regulated through Government Regulation No.8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Change, and Dissolution of Companies

¹⁶ “Undang-Undang (UU) Nomor 11 Tahun 2020 Tentang Cipta Kerja” (2020), <https://peraturan.bpk.go.id/Details/149750/uu-no-11-tahun-2020>.

that Meet the Criteria for Micro and Small Enterprises. Article 3 of Government Regulation No.8/2021 does not specify the minimum amount of authorized capital in an individual company and allows business actors to determine the authorized capital of their business. At least 25% of the authorized capital must be placed and paid up, and can be proven by valid proof of deposit. The proof of deposit must be submitted electronically within a maximum of 60 days after filling out the statement of establishment of an individual company.

The establishment of an individual company must be carried out by an Indonesian citizen (WNI) with a minimum age requirement of 17 (seventeen) years and legal capacity through a statement of establishment in the Indonesian language, which is electronically registered with the Minister and obtains a certificate of electronic registration. The statement of establishment of an individual company must contain:

1. Name and domicile of the individual company;
2. Period of establishment of an individual company;
3. Purpose and objectives and business activities of the individual company;
4. Total authorized capital, issued capital, and paid-up capital;
5. Nominal value and number of shares;
6. Address of the individual company; and
7. Full name, place and date of birth, occupation, residence, population identification number, and tax identification number of the individual company's founders, directors and shareholders.

An individual company must change its company form into a limited liability company if:

1. Shareholders become more than 1 (one) person; and/or
2. Not qualifying as a micro and small business in terms of both capital and annual turnovers in accordance with Government Regulation No. 21/2021.

The amendment to the company's form is done through a notarial deed and registered electronically with the minister. Individual companies are also obliged to report financial statements containing statements of financial position, profit and loss statements, and notes on the current year's financial statements. Suppose the individual company fails to report the financial statements. In that case, administrative sanctions can be given as a written warning, termination of access rights to services, or revocation of legal entity status.

Although an individual company consists of only one person, it does not mean that the property rights over the assets of an individual company can be equated with the property rights over an individual's assets. This is because the individual company is included in the laws and regulations regarding limited liability companies or PT UU. According to the explanation in the previous chapter, the individual company, which can also be called a company in UU PT, also has

property rights over its business assets. In this case, because the individual company is under the auspices of the PT Law, the property rights to assets also follow the rules of limited liability companies.

An individual company has no right to own property rights to assets like a limited liability company. However, suppose the owner of an individual company purchases a certificate of title to land for his business purposes. In that case, the owner can determine whether the certificate will be named as an individual or in the company's name. Nevertheless, when looking at the strength of land rights, where property rights are the strongest and fullest rights, the owner of the right will prefer property rights over other rights under it. In addition, the limited liability for losses in individual companies reduces the risk to the business owner's assets.

From the explanation above, it can be seen that the differences between individual companies before and after the issuance of the Omnibus Law are:

1. That an individual business actor may establish an individual company with himself/herself as a shareholder as long as his/her business activities meet the criteria of Micro and Small Enterprises;
2. That business actors can determine the amount of the company's capital themselves without the minimum requirement of authorized capital as before the enactment of the Omnibus Law;
3. That business actors in individual companies concurrently hold positions as Directors, Board of Commissioners and GMS;
4. Individual business actors can establish a company without using a notarial deed and directly through the relevant ministry, namely the Ministry of Law and Human Rights;
5. In an individual company, assets are separated between the company and the shareholders. Likewise, in the event of a loss suffered by the company, the shareholders of an individual company shall only be liable for their shares;
6. Although one person owns an individual company, the legal position of an individual company under the Limited Liability Company Law means that the property rights over assets follow the regulations of the Limited Liability Company Law.

The Impact on the National Economy

Before the Omnibus Law on Job Creation, people found it difficult to get funding assistance, such as the People's Business Credit (KUR), because they did not have a legal business. Suppose the community wants to apply for funding. In that case, they must establish a limited liability company or other legal entity, which is more complicated and costly. In 2018, MSMEs contributed 57.8% to Indonesia's Gross Domestic Product (GDP) or around IDR 8,573.9 trillion. Then in 2019, the contribution of MSMEs to GDP was around 60.3%, valued at IDR 9,580.8 trillion. Although the contribution in the following year, 2020, decreased

because the world economy was affected by the COVID-19 pandemic, Indonesia's national economy did not fall into the abyss of inflation like many neighbouring countries. This is likely due to the high contribution of MSMEs to the national economy.

In order to improve national economic conditions after the COVID-19 pandemic, the government through the Omnibus Law provides ease of doing business for MSMEs through business licensing that can be accessed digitally by individuals in the Online Single Submission (OSS) portal and through individual companies to make it easier for people to start their businesses. Individual companies are one of the government's efforts to encourage the growth of Micro, Small and Medium Enterprises (MSMEs). With the enactment of the Omnibus Law on Job Creation, the impacts for MSME business actors include:

1. By amending the provisions of the PT Law, MSE business actors can establish a legal entity in the form of an individual company;
2. Through the existence of an individual company, MSE business actors can establish a legal business. They can apply for funding through business capital or community business credit (KUR) investment;
3. With the amendment of the MSME criteria, MSME business actors can get convenience in running their businesses;
4. Risk-based business licensing in the Omnibus Law of Job Creation can help business actors obtain legality for their business activities without requiring much money.
5. The provisions of business licensing and the establishment of individual companies that must be carried out electronically or digitally can facilitate the government in collecting data and controlling the national and regional economic conditions.

According to data from the Central Statistics Agency (BPS) page, in 2020, the position of MSME business loans at commercial banks amounted to IDR 1,088.3 trillion, dominated by Medium Enterprises of IDR 488.26 trillion, Small Enterprises of IDR 352.92 trillion, and Micro Enterprises of IDR 247.14 trillion. In the subsequent year, 2021, with the enactment of the Job Creation Law, the number of MSMEs in Indonesia increased by 2.28% to 65.46 million. During the COVID-19 pandemic, the contribution of MSMEs to national GDP reached 60.5%. MSMEs also contribute to employment with a workforce of 123 million people. The position of KUR UMKM in commercial banks in 2021 has increased by 12.19% to IDR 1,122.015 trillion.

The enactment of the Job Creation Law that changes the criteria for MSMEs also has an impact on the composition of KUR in 2021, namely Medium Enterprises amounting to IDR 371.603 trillion, Small Enterprises amounting to IDR 459.54 trillion, and Micro Enterprises amounting to IDR 389.87 trillion.

However, in 2022, the number of MSME business actors decreased by 0.7%.

On the other hand, the condition of KUR MSMEs improved significantly, increasing by 10.46% to IDR 1,348.81. The increase in KUR MSMEs was driven by micro scale businesses, which saw a substantial 36.63% rise from the previous year, reaching IDR 532.69 trillion. Small-scale businesses also increased, reaching IDR 466.54 trillion, while medium-scale businesses decreased to IDR 349.57 trillion.

In 2023, with the number of MSMEs reaching 66 million business units, the contribution of MSMEs to Indonesia's GDP is IDR 9,580 trillion or 61% of Indonesia's total GDP. MSMEs absorbed 117 million workers or 97% of the total workforce in the same years. Meanwhile, the KUR position of MSMEs reached IDR 1,457.13 trillion, or increased by 8.03%, with the composition of micro-scale businesses amounting to IDR 662.29 trillion, small-scale businesses amounting to IDR 460.77 trillion, and medium-scale businesses amounting to IDR 334.06 trillion.

The growth of MSMEs as a pillar of the national economy can also be seen from the increase in tax revenue from year to year. One of the government programs implemented due to the Omnibus Law is a digital ecosystem for MSME business actors. The number of MSMEs that have gone digital in 2021 reached 16.4 million units from the previous year, which was only 7 million. It can be seen that national tax revenue in 2021 increased significantly from IDR 1,072.1 trillion to IDR 1,278.6 trillion. With the growth of MSMEs, in 2022 and 2023, tax revenue continues to rise to IDR 1,716.8 trillion and IDR 1,869.2 trillion, respectively.

Besides the data from BPS, data on the portal page of the Directorate General of Legal Administration and Human Rights shows that from July 1, 2024, to July 21, 2024, there were 4883 transactions of individual companies in the form of establishment, change, improvement, and dissolution of individual companies. This indicates that many people take advantage of the ease of establishing a separate company and the ease of obtaining a business license to conduct their business.

CONCLUSION

Prior to the Omnibus Law on Job Creation, the term individual company, MSMEs used individual business entities or limited liability companies in running their businesses. According to Article 570 of the Civil Code, individual businesses and limited liability companies have property rights over their assets, meaning that business actors can have property rights over movable and immovable objects. MSME business actors who use individual business entities can have property rights to land as the strongest and fullest right a person can have over their land. Meanwhile, business actors who use a limited liability company business entity cannot own land property rights under Government Regulation of the Republic of Indonesia No. 38/1963 concerning the Designation of Legal Entities that Can Own Land Property Rights.

The enactment of the Omnibus Law on Job Creation introduced several key changes for individual companies in Indonesia. Under the new law, individual business actors are now allowed to establish companies as sole shareholders, provided their business qualifies as a Micro or Small Enterprise. Unlike previous regulations, they can also determine the company's capital without being bound by a minimum capital requirement. These individual actors may concurrently hold all major company positions, including Director, Board of Commissioners, and General Meeting of Shareholders (GMS). Furthermore, the establishment process has been simplified, allowing registration without a notarial deed and directly through the Ministry of Law and Human Rights. The law also clarifies that individual companies enjoy asset separation between the company and its shareholder, limiting liability to the value of shares owned. Despite having a single owner, individual companies are still subject to the legal framework of the Limited Liability Company Law, particularly concerning property rights and asset ownership, as governed by Ministerial Regulation No. 18/2021.

The impact of the Omnibus Law on MSMEs includes the ease of doing business in establishing a business through the regulation of individual company provisions, then by changing the criteria for MSMEs through Government Regulation No. 7/2021 which also makes it easier for MSME business actors to obtain funding assistance in the form of business capital or investment to develop their business. Also, with digital or electronic business registration and licensing, the state can indirectly help the growth of MSMEs and increase state tax revenue.

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