



Registration of Limited Partnership after the Publication of Minister of Law and Human Rights Regulation Number 17 of 2018 (Study in Pekanbaru City)

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Abstract

Business entity is a form of company established by 2 (two) or more people with the pooling of capital to achieve certain goals, which one business entity that is widely used by society is limited partnership. A limited partnership is a form of company that established by one or several people, fully responsible to one and one or more people as a party to release money to another party. Associated with limited partnership, currently Minister of Law and Human Rights Regulation Number 17 of 2018 has been issued concerning the Registration of Limited Partnership Fellowships, that each limited partnership must register electronically, especially limited partnership that has been registered through the court, must be re-registered through an electronic administration system also called registration of registration. The problems discussed in this study are a). How to carry out about registration of limited partnership based on Permenkumham Regulation Number 17 of 2018 (Pekanbaru City Study), b). What are the juridical consequences for limited partnership which does not register in accordance with Minister of Law and Human Rights Regulation Number 17 of 2018. The research method used in this study is an empirical research method with an emphasis on reality in the field, then associated with aspects of law or legislation in effect with regard to the object of research. The results of this study are the implementation of registration of limited partnership based on Minister of Law and Human Rights Regulation Number 17 of 2018 there are a decrease in the interest of business actors to establish limited partnership, because business operators object to the licensing system which is considered detrimental to the company. Then the juridical consequences that occur when a limited partnership does not record registration is that the limited partnership frozen and considered a civil alliance in general. The suggestion in this research is that the government should conduct a review such as conducting a review such as conducting research, as well as conducting a trial run in advance whether these rules can be established or accepted in business activities. Then the regulation in Minister of Law and Human Rights needs to contain sanctions against business entities so that law enforcement can be carried out properly.

Keywords: *Registration; Limited Partnership*

Introduction

One business entity that is in great demand by business actors in Indonesia is the Alliance of Commanders or Commanditaire Vennotschap. A limited partnership is a company that was founded by one or several people to bear responsibility, be responsible wholly or in solidarity, with one or more

people as money lenders.¹ The absence of minimal capital and not as complex as a limited liability company in its establishment, is one of the reasons by the Micro Small and Medium Enterprises entrepreneurs (hereinafter abbreviated as UMKM) to choose a limited partnership in running their business.

The basis for regulating limited partnership in the Commercial Law Code (hereinafter abbreviated as KUHD) is not specifically regulated as a firm alliance and civil alliance, but some legal experts argue that a limited partnership can be applied to the alliance of firms. Provisions of limited partnership are regulated in Article 19 to Article 35 of KUHD.² Arrangements regarding the establishment of limited partnership in essence do not require certain formalities and also not specifically regulated in the KUHD, thus in the view of forming a KUHD the limited partnership as in the case of a civil alliance can be established in writing or verbally³, and outsiders do not need to know of a limited partnership.⁴

However, the practice that occurs in Indonesia shows a custom that in establishing a limited partnership refers to the provisions of the establishment, registration and announcement of the firm as stipulated in the KUHD, namely by making an establishment deed based on an authentic deed which is then registered in the Registrar of the District Court where the company's domicile was established and announced in the Supplement to the State Gazette of the Republic of Indonesia⁵. The limited partnership registration to the District Court to strengthen the position of the limited partnership.

Over time and the development of increasingly rapid technology, also affects the development of the business world in Indonesia. This can be seen that there has been a change in registration of establishment and licensing for business entities, including limited partnership. The amendment to the registration is regulated in Minister of Law and Human Rights Regulation Number 17 Year 2018 concerning the Registration of the Military Alliance, Firm Alliance, and Civil Alliance (hereinafter abbreviated to Permenkumham Number 17 Year 2018). With the change in the regulation, there is a change related to the newly established partnership partnership, namely the registration is done online through the Business Entity Administration System (hereinafter abbreviated to SABU). Changes in registration are a form of implementation of the provisions of Article 15 paragraph (1) Government Regulation Number 24 of 2018 concerning Electronic Integrated Business Licensing Services or better known as Online Single Submission (OSS) (hereinafter abbreviated to PP Number 24 of 2018) which states that limited partnership is a limited partnership that has been registered with the central government.

This change did not only occur in the registration of the establishment of limited partnership, but also on the limited partnership that had existed prior to the issuance of Permenkumham Number 17 of 2018. It contained a provision that for limited partnership registered with the District Court, within 1 (one) period years after the entry into force of Permenkumham No. 17 of 2018 (enacted on August 1, 2018), then a limited partnership shall keep records in accordance with the registration provisions.

After the enactment of these regulations, the registration of the establishment of limited partnership experienced a significant change. Where previously the registration of the establishment only needed to be registered with the Registrar of the District Court but now it is registered with the Central

¹ H.M.N. Purwosutjipto, 2008, Basic Understanding of Indonesian Trade Law Establishing a Company Volume 2, Djambat, Jakarta, p. 75

² I.G.Rai Widjaya, 2005, Corporate Law (Implementing Laws and Regulations (Law on Business Fields), Kesain Blanc, Bekasi, p. 1

³ Ibid., P. 79

⁴ Wirjono Prodjodikoro, 1985, Law of Association of Companies and Cooperatives in Indonesia, Dian Rakyat, Jakarta, p. 52

⁵ H.M.N. Purwosutjipto, Op. Cit. p. 79-80

Government through SABU.⁶ In addition to a limited partnership that has previously been registered at the District Court within a period of one (1) year shall register back by recording the registration.

Based on the explanation above, the authors conducted a study regarding the registration of the establishment of limited partnership and the recording of limited partnership registration. In line with the development of a region, where one of the economic growth points in Indonesia is Riau Province, especially in Pekanbaru City. The author chose the city of Pekanbaru because it is one of the cities that has quite rapid economic growth, so that many entrepreneurs who establish business entities in the city of Pekanbaru, one of which is a limited partnership. Because the establishment of limited partnership requires an authentic deed, the author seeks information about the registration of the establishment and recording of the registration of a limited partnership to several notaries in the city of Pekanbaru.

Based on the results of research that the author has done on several notaries related to the registration of limited partnership, namely since the enactment of Permenkumham Number 17 of 2018 on the registration of limited partnership, there are still business actors who have not made the recording of the registration. There was a transition in registering limited partnership alliance which was previously registered at the Registrar's Office of the District Court, but now it is done online through SABU which makes the writer interested in conducting further research.

Research Methods

The method used in this thesis research is empirical juridical research, which is research based on field research to get primary data in the field of law. The specifications of this study are descriptive analysts, because this study is expected to obtain data that clearly illustrate what is discussed in this study. The type of data used in this study are primary and secondary data, where secondary data consists of Primary, Secondary and Tertiary Legal Materials. The data collection techniques used for research in the field are interviews and study of documentation documents. While the data obtained from this research will be analyzed using qualitative methods, namely analysis of data without using statistical formulas because the data used are not in the form of numbers. Thus what is used is only by logical explanation of the sentence based on the rules and opinions of experts.

Result of Reasearch

Implementation of Limited Partnership Registration Based on Permenkumham Number 17 Year 2018 (Study in Pekanbaru City)

In accordance with Permenkumham Number 17 Year 2018, which is a new rule that the application for registration of establishment of limited partnership is submitted through SABU no later than 60 (sixty) days from the date the deed of establishment of limited partnership has been signed. If the registration of the establishment of a limited partnership exceeds a predetermined time period, the application for registration cannot be submitted to the Minister. The application is made by filling in the registration form, wherein the person concerned uploads the deed of establishment of a limited partnership submitted electronically with supporting documents in the form of:

⁶ Article 4 Jo Article 5 Regulation of the Minister of Law and Human Rights Number 17 Year 2018

- a. An electronic statement from the applicant stating that the documents for CV registration are complete;
- b. Statement from the Corporation regarding the correctness of information on the beneficial owner of CV.

Similar to the agreement to use the name of a limited partnership, to request registration of the establishment of a limited partnership also a voucher purchase is made. The cost of purchasing a voucher for registration of a deed of partnership is limited, amounting to Rp 100,000 (one hundred thousand rupiah) per application. Payments are made through perception banks in accordance with statutory provisions in this case, namely banks that have collaborated with AHU institutions. Payment is made within a maximum period of 7 (seven) days from the order.

The next step is filling in the registration form of a partnership partnership which is done electronically through SABU, here are some columns that must be filled in:

1. filling limited partnership data
2. Filling out business activities
3. Filling out the limited partnership address
4. Filling out the NPWP CV
5. Filling out the Notarial Deed
6. Capital Replenishment
7. Filling in the Founder Data CV
8. Filling Data Management CV
9. Filling the Rights and Obligations of the Founder of CV
10. Charging Benefit Owners CV

After all the columns are filled, the final step is uploading the deed of establishment of the limited partnership.

The existence of new rules related to the establishment of limited partnership namely Permenkumham Number 17 of 2018 has an impact on the decline in public interest to establish a limited partnership, this is concluded through the author's research in several Notary offices in Pekanbaru City and see the least number of deeds of establishing a limited partnership in 2019 since the enactment of regulations the new. From the results of the interview, it was also found that the reason for the decline in interest in establishing a limited partnership is currently considered to be complicated and burdensome for small and medium businesses, because they have to incur more costs in establishing it.

Juridical Consequences Against the Limited Partnership Who Have Not Registered Registration in Accordance with Permenkumham Number 17 Year 2018

Regulations regarding record of registration can be found in the Transitional Provisions of Article 23 Permenkumham Number 17 of 2018 which states that:

- 1) When this Ministerial Regulation comes into force, CV, Firm and Civil Alliance that have been registered in the District Court based on statutory regulations, within 1 (one) year after the enactment of this Ministerial Regulation shall be obliged to record the registration in accordance with the provisions This Ministerial Regulation.
- 2) Registration of registration as referred to in paragraph (1) is permitted to use names that have been used legally by CVs, Firms and Civil Partnerships that have been registered in SABU.

The record registration activities, namely limited partnership which has been registered at the District Court, is required to re-register the limited partnership in SATURDAY. In this case registration is permitted to use the name that has been used legally by a limited partnership that has been registered with SABU. The point is that the business actor is asked to register the name of the limited partnership listed in the authentic deed to SABU first, so that it can then be continued at the registration registration stage.

There is no sanction contained in Permenkumham if within the stipulated period the limited partnership does not record registration, this then motivates the author to interview the relevant agencies to find out the consequences that occur in the field, where the authors conducted interviews with employees of relevant government agencies. He said implementing registration was to strengthen the legal position and facilitate partnership in conducting business activities, especially if you want to collaborate with the government or other third parties. With regard to limited partnership not registering registration, what happens is that there is a possibility that the name of the partnership will be taken by another person, the limited partnership will be frozen, unable to carry out licensing and besides the status of the limited partnership before the law is not recognized even though its existence is still there.

If the limited partnership does not record the registration within 1 (one) year since the enactment of Permenkumham Number 17 Year 2018, namely on August 1, 2018, then from August 1, 2019 the limited partnership will be frozen, so things must be done by the owner of the limited partnership namely establishing a new limited partnership. It can be said that recording registration is a form of legal certainty required by limited partnership in strengthening its stance. This is also done to facilitate the government in supervising business activities carried out by business actors, where so far the government has paid less attention to the business activities carried out. The purpose of this supervision is that one of the orderly business operators is to make payments related to state revenues in the form of taxes.

Regarding the registration registration in Permenkumham Number 17 Year 2018, it does not mean there is no weakness. The regulation does not stipulate provisions on sanctions for limited partnerships that do not record registration, so this will have implications for the effectiveness of law enforcement. The absence of sanction arrangements in Permenkumham Number 17 Year 2018 as an implementing regulation, is returned to the more general rule, namely Government Regulation Number 24 Year 2018 Regarding the Integrated Business Licensing Services, where there are provisions in Article 15 paragraph (1) which explains that:

"The limited partnership (commanditaire vennootschap) as referred to Article 6 paragraph (3) letter i is a limited partnership (commanditaire vennootschap) that has been registered with the Central Government"

For the phrase "which has been registered" as regulated in Article 15, the intention is that a legitimate limited partnership is a limited partnership that has been registered with the central government. This also applies to the registration recording, where recording valid registration is a limited partnership registered in the District Court must register back to the central government, this means a limited partnership register listing on SABU.

In connection with the aforementioned problems, the limited partnership which does not record registration will apply the rules contained in Article 29 of the Indonesian Criminal Code which states that:

"As long as the registration and announcement has not taken place, then the third party alliance of the firm must be considered as a public company, is for all matters, also as established for an unlimited time and finally even as if there was no company excluded from the right to act and the right to sign for the firm. "

As for the explanation of the article above, for limited partnership which does not carry out registration and announcement, the limited partnership is considered to be a general alliance. Likewise for limited partnership which does not register registration based on Permenkumham Number 17 of 2018, in accordance with Article 15 paragraph (1) PP Number 24 of 2018 that limited partnership is a limited partnership that has been registered with the Central Government, then in this case applies Article 29 of the KUHD where alliances which do not record registration are considered as general civil partnerships.

Conclusion

Based on the descriptions stated above, conclusions can be drawn as follows:

1. The registration of limited partnership based on Permenkumham Number 17 Year 2018 in Pekanbaru City has been well implemented. Changes in regulations related to registration of limited partnership partnerships have resulted in a decrease in the interest of business actors to establish limited partnership partnerships, this is because business operators object to the existence of a new licensing system that is considered detrimental to business actors.
2. The juridical consequence of limited partnership which does not record registration is that the limited partnership is frozen and is considered to be a general civil alliance.

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