

Arrears in Contributions to the Employment Social Security Administering Agency in the Perspective of State Financial Recovery

Anak Agung Ayu Intan Puspawati^{1*}, Ida Bagus Gede Angga Juniarta²

Fakultas Hukum Universitas Pendidikan Nasional¹

BPJS Ketenagakerjaan Cabang Denpasar²

Article Info

Article history:

Received: 23 January 2025

Publish: 1 March 2025

Keywords:

Social Security Administering Body;

Outstanding;

State Finance.

Abstract

BPJS is an entity that functions as the organizer of social security programs, structured as a public legal entity. Any policy issued by the Government is not always smooth or free from obstacles as desired by the Law. The current issue faced by BPJS is related to the outstanding BPJS contributions from employers or businesses. The purpose of this writing is to determine the position of the BPJS contribution arrears in relation to State Finance. The methodology used in this journal writing is Normative Methodology. Regarding State Finance, a fundamental aspect is the contribution from the State Budget (APBN) as stated in Law No. 17 of 2003 concerning State Finance. The connection with the arrears of BPJS Employment contributions is that when these contributions are not paid by employers or businesses, it leads to indirect losses to State Finance, because when BPJS Employment was established, the State had initial capital sourced from the APBN placed in BPJS Employment according to Law Number 24 of 2011 from the APBN. Therefore, in relation to the arrears of BPJS Employment contributions, the relevant authorities in the legal field can assist BPJS Employment in recovering State finances.

This is an open access article under the [Lisensi Creative Commons Atribusi-BerbagiSerupa 4.0 Internasional](https://creativecommons.org/licenses/by-sa/4.0/)



Corresponding Author:

Anak Agung Ayu Intan Puspawati

Fakultas Hukum Universitas Pendidikan Nasional

Email: intanpuspawati@undiknas.ac.id

1. INTRODUCTION

Based on Law Number 24 of 2011 concerning Social Security Administration Bodies (hereinafter referred to as the BPJS Law), social security administration bodies are organized in the form of public legal entities. In Indonesia there are 5 social guarantees, namely, the first is National Health Insurance (JKN) which is regulated in Government Regulation Number 82 of 2018 concerning Health Insurance. Health insurance is a protection system designed to guarantee every individual's access to adequate health services. This protection is provided to all participants who have paid health contributions, or to those whose contributions are paid by the government, both at the central and regional levels. National Health Insurance (JKN) is an integral component of the broader national social security system in Indonesia, the management of which is carried out by BPJS Health. This program aims to provide fair and equitable access to health services for all Indonesian people, as well as reducing the burden of health costs, both for preventive, promotive, curative and rehabilitative care. The government, through JKN, is also committed to protecting its citizens from financial risks due to high health costs. This system relies on the principle of mutual cooperation, where each participant pays contributions which are then used to finance the health service needs of other participants, in accordance with applicable regulations.

Furthermore, Work Accident Insurance and Death Insurance are regulated in the Government Regulation of the Republic of Indonesia Number 44 of 2015 concerning the Implementation of Work Accident Insurance and Death Insurance Programs. Work Accident Insurance refers to the protection provided to participants who experience a work accident or suffer from illness due to work environment conditions. Benefits provided in this program include cash allowances and/or health services to support the recovery of affected participants. Meanwhile, Death Benefit refers to providing cash benefits to the heirs of participants who die, which is not caused by a work accident.

The next social security is Old Age Security (JHT), which is regulated in the Republic of Indonesia Government Regulation Number 46 of 2015 concerning the Implementation of the Old Age Security Program. JHT is one component of the social security program organized by BPJS Employment. This program aims to provide financial protection to participants who face risks related to old age, by providing cash benefits that can be used to meet the participant's living needs. Contributions for JHT are usually paid by participants and/or employers, in accordance with applicable regulations. The number of benefits that participants receive is based on the number of contributions paid and the length of participation in the program. The pension guarantee is a type of social security program which aims to provide financial protection to participants after reaching retirement age, experiencing permanent total disability, or to the heirs if the participant dies. This program is designed to ensure participants can maintain a decent standard of living after no longer actively working or experiencing conditions that make them unable to work. Lastly is Job Loss Guarantee, namely social security given to workers/laborers who experience termination of employment in the form of cash benefits, access to job market information and job training.

The entire implementation of this social security program is aimed at the welfare of the Indonesian people based on Article 28 H paragraph (3) of the 1945 Republic of Indonesia Constitution, which states that the state is obliged to develop a social security system. So, this is where there is a big role for the state to participate in managing social security in improving the life of the nation and state.

Every policy issued by the Government will certainly not be as smooth or run smoothly without obstacles as desired by the Law. The problem currently faced by BPJS is related to the payment of BPJS Contributions. BPJS Employment contributions in this case function to provide benefits to BPJS Employment participants. BPJS Employment itself already has an SOP related to collecting outstanding contributions from business entities/companies that are BPJS Employment participants. However, there are still entities/businesses or companies that intentionally or not do not pay contributions which are the obligations of the business entity/company. At this time, it is important to discuss whether arrears in BPJS Employment contributions can be categorized as state finances, because BPJS Employment in Law 24 of 2011 has the authority to report non-compliant business entities/companies to the competent authorities. This is related to the social security system being used to the greatest extent possible. the magnitude of the participants' interests. Based on the problems previously explained, two research questions can be formulated, namely, what are the legal consequences of having arrears in BPJS Employment contributions, and how are arrears in BPJS Employment contributions related to the recovery of state finances.

2. RESEARCH METHOD

The research used in writing this article is empirical legal research. Empirical research is an approach that emphasizes observation and analysis of laws that apply in practice, not just theories or written legal norms. The type of data used in this writing consists of primary data and secondary data. Primary data was obtained through research carried out in the field, while secondary data includes statutory regulations, ministerial regulations and other regulations relevant to the issues discussed. This research is descriptive in nature, namely describing business entities that are in arrears in paying BPJS Employment contributions. The data collection techniques used in this research are document study techniques, field survey techniques and interviews. The information for this research is data from BPJS Employment. The qualitative data analysis used in this writing is presented in descriptive and systematic form.

3. RESEARCH RESULTS AND DISCUSSION

3.1 Arrears in Contributions to the Employment Social Security Administering Agency

3.1.1 Understanding Contributions in the BPJS Law

Employment social security is a social security system organized by the state to provide social protection and welfare for workers or workers. The main aim is to ensure that workers and their families receive protection from risks that can occur in working life, such as work accidents, illness, retirement, and loss of work. To implement this system, an organizing body was formed which is based on the principles of mutual cooperation, non-profit, openness, prudence, accountability, portability, participation obligations, fund mandate, and management of the results of social security funds which are fully intended for program development and for the benefit of large number of participants.

BPJS Employment has 4 membership segments, namely the Wage Recipient sector (hereinafter referred to as PU), the Non-Wage Recipient sector (hereinafter referred to as BPU), the Construction Services sector (hereinafter referred to as Jakon), and the Indonesian Migrant Worker sector (hereinafter referred to as PMI). with the contributions and benefits that will be received by workers in each segmentation. Specifically in this article we will discuss Contributions with the segmentation of Wage Recipients.

In principle, the term "contribution" in the Big Indonesian Dictionary refers to the amount of money submitted by members of an organization to the treasurer periodically every month, which is used to cover administrative costs. BPJS Employment in carrying out its duties as mandated in the BPJS Law has several implementing regulations, which regulate the number of contributions for each program held. Contributions for Work Accident Insurance (hereinafter referred to as JKK) and Death Insurance (hereinafter referred to as JKM) are regulated in Government Regulation No. 44 of 2015. JKK contributions themselves are regulated in Chapter III Part One Article 16, that JKK contributions for Public Works Participants are 0.24% up to 1.74% of a month's wages. *The* amount of JKK contributions is based on the level of risk in the work environment. The JKM contribution in Article 18 PP 44 of 2015 is set at 0.30% of a month's wages.

Old Age Security Contributions (hereinafter referred to as JHT) JHT is regulated in Government Regulation No. 46 of 2015. JHT Contributions are regulated in Chapter III Article 16 paragraphs (1) and (2), that JHT contributions are divided into obligations of the employer and also obligations of the employee. work, so JHT contributions are mutual cooperation. Employers have an

obligation of 3.7% times their wages for JHT contributions from each worker, while workers are deducted 2% of their wages for this JHT program.

Pension Guarantee Contributions (hereinafter referred to as JP) are regulated in PP No. 45 of 2015. Regarding JP contributions in Chapter IV Part One Article 28 paragraph (1), (2), (3), it is stated that the contribution for this JP program is 3 % of a month's wages. These contributions are divided between the company's obligations and those of the workforce. Companies are required to pay JP contributions of 2% of the monthly wages of each worker and 1% of the workers' wages which is deducted for BPJS Employment contributions. Furthermore, this is related to BPJS Employment contributions which have been explained previously, both in value and percentage, whichever is most. The important thing is related to the employer's obligation to pay the contributions that have been collected either by the company itself and/or together with the workforce. related to this contribution obligation, as stated in Article 19 of Law 24 of 2011, that every business entity/company is obliged to collect and deposit BPJS Employment contributions to BPJS Employment.

The contributions that must be paid must be received by BPJS Employment no later than the 15th of the current month. If there is a delay in the payment date, the business entity will be subject to a penalty of 2% multiplied by the business entity's one month's contribution.

3.1.2 Legal Consequences of Arrears in BPJS Employment Contributions

Basically, before explaining the meaning of legal consequences, you must first understand the legal subject, legal event, legal act. (Yati Nurhayati, 2020) Legal subject is a term that refers to parties who have rights and obligations in a legal system. Legal subjects can be individuals, groups or legal entities that are recognized by the legal system as having certain rights and obligations. Legal subjects are also divided into 2, including: *natural person* (private person) and *right person* (legal entity). (Yati Nurhayati, 2020) funds collected from contributions paid by participants, consisting of workers or workers, both formal and informal, as well as employers (for workers who work for a company) in order to meet their needs for future social protection. This fund also includes development or investment results from the collected funds. based on Article 1 number 3 of Law 24 of 2011.

Legal events are legal events that lead to the emergence of legal consequences based on existing legal provisions, whether caused by unintentional actions or events. Furthermore, according to R. Soeroso, an unlawful act is any action or omission committed by a legal subject that is contrary to applicable legal rules, and causes legal consequences that are detrimental to other parties. Because it violates the law, this action can be subject to sanctions in the form of compensation, criminal sanctions, or other actions in accordance with the type of action and applicable legal regulations. (Yunasril Ali, 2009) Lastly is the legal consequence, where the meaning is the impact or result that arises from a legal act carried out by legal subjects, the impacts of which are regulated by law and can include the emergence of rights and obligations or the imposition of sanctions.

In the problem of arrears in BPJS Employment contributions, it can be studied first, who is the legal subject, then what are the legal events, and finally what legal consequences arise therein. The legal subject in cases of arrears in BPJS

Employment contributions is the employer, where employers are various parties who have the obligation to provide payment for services provided by workers or employees, whether in the form of salaries, wages or other rewards. These payments are usually regulated by applicable labor regulations, and workers or employees have the right to receive payments in accordance with the agreed employment contract. Legal events that can occur in this contribution are that employers have an obligation to collect contributions which are the responsibility of participants from their workers and submit them to the social security administering body (BPJS). Finally, the legal consequences arising from this incident are that employers and participants have the right to receive benefits from the work accident insurance, death insurance, old age insurance and pension guarantee programs organized by BPJS Employment, then the employer is obliged to pay and deposit the contributions which become responsibility to BPJS. Problems arise when employers are in arrears in BPJS Employment contributions, so that the legal consequences are that workers' rights are delayed, which can be detrimental to workers. Then based on Article 55 in conjunction with Article 19 of the BPJS Law, based on this article, employers who violate legal provisions can be subject to imprisonment for a maximum of 8 years or a fine of a maximum of IDR 1,000,000,000 (one billion rupiah).

3.2 Arrears of BPJS Employment Contributions in the Recovery of State Finances

3.2.1 Understanding State Financial Recovery

The 1945 Constitution of the Republic of Indonesia mandates that one of the goals of the state is to promote general welfare. In this case, state financial law aims to ensure that funds used for public interests are managed efficiently, transparently and accountability. State finances originating from state income, such as taxes, natural resource proceeds, or loans, must be used to fund government activities, development and public services aimed at the welfare of the people (Muhammad Djafar Saidi and Eka Merdekawati Djafar, 2017). The definition of State Finance refers to all the rights and obligations owned by the state which can be valued in money. This includes all assets owned by the state, both in the form of money and goods, which are related to the implementation of the state's rights and obligations. In other words, state finances include all the resources the state has to support government and development activities, as well as the obligations that the state must fulfill towards society and other parties. According to Van der Kemp, the financial concept includes all rights that can be valued in money, as well as everything owned by the state that is related to these rights, whether in the form of money or goods. This shows that state finances are not limited only to monetary aspects, but also include assets and other resources owned by the state. This definition shows the importance of financial management to support the state's functions and responsibilities in providing services to the community. (Susanti et al., n.d.)

According to M. Achwan, state finances can be understood as a quantitative activity plan, where all activities are measured in the form of numbers, especially in currency amounts. This plan is usually intended for a future period, generally for one year. This view emphasizes the importance of systematic and measurable planning in managing state finances. By having a clear plan, countries can be more effective in allocating resources, managing budgets, and achieving development goals. Apart from that, this concept also reflects the relationship

between planning and supervision, where financial activities must be monitored and evaluated to ensure that budget use runs as planned. (Sumaryanto, 2010)

The definition of state loss according to the law refers to the situation that occurs when state finances experience a decrease in value or a reduction which can be in the form of a reduction in money, goods or state assets. However, state losses are not only limited to the reduction in physical assets or state funds, but also include the emergence of new obligations for the government that should not exist. In other words, state losses can occur if the state is forced to bear burdens or obligations that previously should not have been borne. State financial loss is a concept that refers to the loss or reduction of money, securities or property owned by the state, whether due to intentional legal action or due to negligence (Edbert et al., 2022). State losses are different from losses in the context of companies or commerce. State financial losses occur as a result of unlawful actions, and can occur in two main stages:

- a. Stage of Funds Entering the State Treasury: At this stage, losses can occur in several ways, including:
 - a) Tax Conspiracy: Fraudulent acts in tax reporting that cause the state to lose tax revenues that it should receive.
 - b) Conspiracy to Pay Criminal Fines: For example, in cases where fines are not paid by law violators which should be state revenue.
 - c) Additional Criminal Execution: This includes situations where the offender is required to reimburse the state for losses, but does not do so.
 - d) Smuggling: Illegal activities that result in the loss of potential state revenue from customs and excise.
- b. Stage of Funds Out of State Treasury: At this stage, losses can occur through unauthorized expenditure or misuse of the budget, such as corruption, collusion and nepotism, which harm state finances.

Before discussing more deeply about state financial recovery, it is appropriate to first understand the meaning of state finances. State finance is a crucial concept in the national financial system, which includes all state rights and obligations that can be measured in money, as well as everything related to the management of state assets or resources. A very important aspect of state finances includes the effective and efficient management of state finances, as well as the state's responsibility in managing these financial resources. Receivables, in particular, are also included in the scope of finance. As a state right which is included in the category of non-tax revenue, this is the responsibility of the state ministry or related institution in its implementation, especially in terms of collection and management. Meanwhile, the debt in question is a state obligation whose payment is the responsibility of the state ministry/institution concerned, in relation to third parties in the context of procuring goods and/or services arising based on statutory regulations or court decisions. Further understanding of state receivables are entities that, either directly or indirectly, are under the control of the state based on regulations, agreements, or other reasons, which have an obligation to pay a certain amount of money to the state. Article 41 paragraph (1) of the BPJS Law states that BPJS assets originate from:

- a. initial capital from the government
- b. proceeds from the transfer of assets of the Business Entity Owned by Countries that administer social security programs;
- c. BPJS asset development results;

- d. operational funds taken from the Social Security Fund; and/or
- e. other legitimate sources in accordance with statutory regulations.

Article 42 further states, "The capital intended for BPJS Health and BPJS Employment is set at a maximum of IDR 2,000,000,000,000 (two trillion rupiah) each, sourced from the State Revenue and Expenditure Budget.

So, based on the rules mentioned above, if there are receivables from business entities which will later impact the finances of BPJS Employment, it can be said to be a form of state loss, where the result of arrears in contributions by business entities will have an impact on the benefits to participants whose payments are made. using funds sourced from BPJS fund management and assets, some of which are state-owned capital

3.2.2 Recovery of Arrears of Bpjs Contributions Employment

From previous studies, BPJS Employment finances are included in state finances, so that recovery of BPJS Employment receivables is included in state Financial Recovery. Financial recovery efforts at BPJS Employment are regulated in BPJS Employment Directors Regulation Number: PERDIR/36/102020 concerning *Collection Management System* and Regulation of the Directors of BPJS Employment Number: 14/PERDIR.02/072023 concerning Management of Contribution Receivables and Fines.

BPJS Employment Directors Regulation Number: PERDIR/36/102020 concerning *Collection Management System* is an internal rule in BPJS Employment which regulates an integrated system starting from aspects of coaching participants, collecting and paying contributions, posting contributions, collecting arrears, law enforcement against participants who are in arrears, as well as a system for recording and bookkeeping contributions and arrears/receivables. action for recovery of contribution arrears by BPJS Employment is based on *The International Social Security Association (ISSA Guidelines)* include, among others, *Governance, Strategy, Operational Processes, Fraud Control, Coordination with Outside Organizations, Fostering Awareness, a Culture of Social Security and Compliance, And Maturity of the Programmed and Permanent Evaluation and Adjustment.*

Specifically regulated in Article 4 paragraph (2) Regulation of the Directors of BPJS Employment Number: PERDIR/36/102020 concerning *Collection Management System*, to overcome non-compliance (contribution arrears) can be done with 4 (four) strategies, namely:

- a. Preventive measures;
- b. caring;
- c. detection;
- d. inspection action.

More specifically, it regulates contribution receivables and fines at BPJS Employment, regulated in the Regulation of the Directors of BPJS Employment Number: 14/PERDIR.02/072023 concerning Management of Contribution Receivables and Fines. This regulation specifically discusses the technical aspects of collecting BPJS Employment contribution receivables, where BPJS Employment has an audit officer to carry out the collection. In the event that the collection carried out by the BPJS Employment Inspection Officer cannot be completed, then based on Article 59 of the Regulation of the Directors of BPJS Employment Number: 14/PERDIR.02/072023 concerning Management of

Contribution Receivables and Fines, collection of outstanding contributions and fines can be carried out in collaboration with agencies authorized person.

BPJS Employment Directors Regulation Number: PERDIR/36/102020 concerning *Collection Management System* regulate cooperation with authorized agencies, including the State Property and Auction Services Office, the Prosecutor's Office, or other parties deemed competent, both government and private agencies.

4. CONCLUSION

BPJS Employment's receivables can be said to be a state loss because BPJS Employment's initial capital was previously PT. Social Security is included in separated state assets, so that the recovery of BPJS Employment receivables, whether carried out independently or in collaboration with authorized agencies, can be said to be a recovery of state finances.

5. ACKNOWLEDGEMENT

On this occasion, the author would like to express his deepest gratitude to the Faculty of Law UNDIKNAS and BPJS Employment Denpasar branch as well as the parties who have provided support, both directly and indirectly, in the preparation of legal materials for this writing. Thanks, are also expressed to the editorial board of the Journal of Legal and Administrative Sciences, which has provided the opportunity to publish the results of this research.

6. BIBLIOGRAPHY

- [1] A. D. Sumaryanto, "Perspektif Yuridis Pengembalian Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi.," *J. Judic. 1(1)*, 22–41., 2010.
- [2] A. (n. d.). Susanti, A. D., Islam, U., Sayyid, N., & Rahmatullah, "PERSPEKTIF HUKUM KEUANGAN NEGARA TERHADAP MEKANISME PERTANGGUNGJAWABAN PENGELOLAAN ANGGARAN PENDAPATAN DAN BELANJA DAERAH," pp. 53–70..
- [3] Y. Nurhayati, "Pengantar Ilmu Hukum. Nusamedia.," 2020.
- [4] Y. Ali, "Dasar-Dasar Ilmu Hukum.," *Sinar Graf.*, 2009.
- [5] H. Edbert, F., Tundjung, D., & Sitabuana, "Keuangan Negara Dan Kerugian Negara Di Indonesia Dalam Tindak Pidana Korupsi.," *Serina Iv Untar 2022*, 513–522., 2022.

LEGISLATION:

The 1945 Constitution of the Republic of Indonesia

Law Number 17 of 2003 concerning State Finance

Law Number 24 of 2011 concerning Social Security Administering Bodies

Government Regulation Number 82 of 2018 concerning Health Insurance

Republic of Indonesia Government Regulation Number 44 of 2015 concerning the Implementation of Work Accident Insurance and Death Insurance Programs. Understanding Work Accident Insurance

Republic of Indonesia Government Regulation Number 46 of 2015 concerning Implementation of the Old Age Security Program

Republic of Indonesia Government Regulation Number 45 of 2015 concerning the Implementation of the Pension Guarantee Program

Republic of Indonesia Government Regulation Number 37 of 2021 concerning Implementation. Job Loss Insurance Program

BPJS Employment Directors Regulation Number: PERDIR/36/102020 concerning *Collection Management System* and Regulation of the Directors of BPJS Employment Number: 14/PERDIR.02/072023 concerning Management of Accounts Receivable and Fines.

BPJS Employment Directors Regulation Number: PERDIR/36/102020 concerning *Collection Management System*

BPJS Employment Board of Directors Regulation Number: 14/PERDIR.02/072023 concerning Management of Accounts Receivable and Fines