

SEEKING THE IDEAL FORM OF SOLE *PROPRIETORSHIP* IN BUSINESS ACTIVITIES IN INDONESIA

MUHAMMAD PURBAJA ¹, BUDI SANTOSO ² and SITI MALIKHATUN B ³

¹ Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang. Email: m.purbaja@student.undip.ac.id

^{2,3} Doctoral Law Program, Faculty of Law, Diponegoro University, Jl. Prof. Soedarto, SH., Tembalang, Semarang.

Abstract

Muhammad Purbaja. 2022. Dissertation of the Doctoral Study Program in Law, Diponegoro University, Semarang. Looking for the ideal form of sole *proprietorship* in business activities in Indonesia. The purpose of this study is to analyze: 1) How is the dynamics of individual business forms (Sole proprietorship) made the choice of many business actors in carrying out their business activities, especially from the aspects of advantages and disadvantages of choosing individual business forms in Indonesia?, 2) Are existing regulations capable enough to regulate and accommodate various basic characteristics of individual business entities compared to other business forms?, 3) What is the ideal arrangement of an individual business entity in Indonesia? The research method used is empirical juridical with a statutory approach, concept approach, and case studies. The results show that: 1) The emergence of Indonesian entrepreneurs can be the starting point for the movement of the Indonesian economy in a better direction. People's mindset about entrepreneurship gradually began to grow. Emerging jobs will certainly absorb labor. Indonesia is a country with a high population. Entrepreneurship in labor-intensive sectors is what is needed in Indonesia so that people's welfare can increase and can reduce unemployment and be able to increase the growth rate and economic welfare in Indonesia. 2) Establishment of an Individual Company is allowed to establish an individual company other than the individual company that is already owned. This establishment can only be done after a certain period of time after the establishment or ratification of the previous individual company legal entity. The minimum authorized capital of the company is handed over to the founders or shareholders as stated in the company's deed of establishment. When it comes to the form of a business entity, the agreement between the founders is the initial form of an association. The association then became the initial form of various forms of business entities. 3) Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) in which one of the clusters amends and adds provisions in the Law on PT. The Job Creation Law is expected to increase new jobs and increase domestic and foreign investment in Indonesia by streamlining statutory provisions.

Keywords: Legal, Business, Individual, Business.

INTRODUCTION

Background

It is undeniable that the role of an entrepreneur (*entrepreneur*) for the business world is so great. In many countries *entrepreneurs* have been able to encourage business activity by creating and providing new products and services. *Entrepreneurs* have been able to provide employment for many people by paying them as employees or agents, in macro terms their role has been able to encourage the country's economic growth. However, *entrepreneurs* who decide to carry out business activities, both domestic and international, must decide to determine what form of business organization to choose in starting a business activity. Some choices of business organization forms are *sole proprietorship*, *general partnership*, *limited partnership*,

*corporation, and limited liability company, or in other available forms of business organization, such as franchise, joint venture.*¹

*Sole proprietorship is the most common form of business and is widely found in the community because of some of its flexibility, sole proprietorship is an individual business form that is only owned by one business owner, so it is often referred to as sole proprietor. While partnership is a form of business that has two or more business owners, so it is often referred to as **partners**. Another more complicated form is the *corporation*, which is owned by shareholders who then determine the board of directors assigned to carry out the day-to-day activities of the business.*

The choice to determine which business organization to choose depends largely on many factors, including;

- a. Costs that must be provided to manage certain forms of business organization;
- b. Capital that must be provided to start a business with a certain business organization;
- c. Flexibility in management in relation to decision making;
- d. How broad is personal liability;
- e. Tax considerations etc.

Thus the choice to determine which form of business organization to choose to start business activities is determined by many considerations between economic (financial) considerations, juridical considerations, taxation considerations.

*Sole proprietorship is the simplest form of a series of forms or organizations of business. The sole proprietor is the owner of all business assets and he is solely responsible for all debts made in the course of his business activities. Sole proprietorship, a simple form of business that is owned by one individual, the sole proprietor, who is solely and personally responsible for all debts and liabilities of the business and who is entitled to all profits of the business.*²

*Kenneth W. Clarkson in his book mentions that A sole proprietorship is the simplest form of business. In this form, the owner is the business; thus, anyone who does the business without creating a separate business entity, such as a partnership or corporation, has a sole proprietorship.*³

Henry R. Cheesemenn, *meanwhile*, explained that *sole proprietorship as a form of business where the owner is actually the business, the business is not a separate legal entity.*⁴ It is further explained that the main characteristic inherent in *the sole proprietorship business organization model is to carry out business activities with the label "doing business as", meaning that the sole proprietorship business form is carried out using the name of the owner or with a certain trade name he chooses. For example, the owner's name "HENRY R. CHEESEMEN" or with a specific trade name, such as "THE BIG CHEESE". Sole proprietorship that runs a business under a specific trade name other than the name of the original owner, is often referred to by the abbreviation D.B.A, "doing business as", thus in that example Henry R Cheesemen, Doing Business As "The Big Cheese". In some states in the United States, business activities with sole proprietorship that use a specific trade name other than the name of the owner must register*

the trade name to obtain a certificate of trade name, for that the owner must register the fictitious business name statement. The fictitious business name statement contains several things, including;

- a. Name and address of the applicant
- b. Trade name used
- c. Address of business activities carried out

Unlike corporations which are usually a unitary business or entity, sole *proprietorship* is more of an individual or personal business. The owner is a person who is personally responsible for all debts and other obligations incurred as a result of the transaction he carries out, but in return the owner has the right to all profits obtained from the business activities he conducts. Thus, actually behind some of the flexibility inherent in the form of individual business, this form of business is very high risk for the owner, it is because all assets owned by the owner are dependent on all the debts of the company he makes, so it is likely that the owner of the company will lose all his wealth if the company is insolvent.

In practice, the owner can delegate some of his authority to the agent, however, the authority to make decisions must still come directly from the owner, who will be responsible for all actions taken by the agent, employee or employee.

In many countries, the form of business organization with the form of *sole proprietorship* is generally more entity than the form of a corporation (*corporation*), however, judging from the income obtained by these business actors, usually more income is obtained by companies than individual businesses. This will also have an impact on state revenue from the income tax sector. Although the number of individual businesses is more than companies, in terms of state income from the income tax sector, state income is more derived from corporate income tax than income tax from individual businesses.

In terms of law in Indonesia, the establishment of an individual business entity does not recognize specific regulations on how to establish it, including the dissolution of the business entity in the event of bankruptcy. This also has an impact on the extent of responsibility for the debts he makes, the separation between the assets of business entities and their personal assets.

In corporate law theory, business forms or business organizations can be divided into three groups, namely business forms that are centralized **in individual ownership or often known as sole proprietorship**, *and in the form of joint ownership businesses often known as partnership*. In addition, other more complicated forms of business are also known, namely companies or often known as *corporations*. The three forms of business have uniqueness and character that are different from one another, so that each of these business forms has its own advantages and disadvantages.⁵

There are several **advantages** of running a business with an individual business form compared to a company business form, namely: the existence of *a full management authority, minimum formalities and regulatory and reporting requirements, low cost of organization, income tax benefits*.⁶

Full management Authority, meaning that business owners have full authority to manage their business activities in various ways that they consider good without having to ask for approval from their business partners or the board of directors as in other forms of business, PT for example. Individual business owners do not need bureaucracy or time delays in the process of making business decisions, as is required in other forms of business. Individual business owners can also delegate some of their authority by paying workers or employees or agents, but all within the control of the individual business owner.

Minimal formalities and regulatory and reporting requirements, in many countries *sole proprietorships* arise not because of regulations, therefore very few formalities must be followed to establish this business. However, this form of business must also be subject to several coercive provisions, such as licensing issues, tax rules, which are generally coercive rules imposed on all forms of business, including individual businesses. In addition, numbers are usually also matters related to taxpayer identification numbers (*tax identification*) must be followed. In addition, if the business activity is carried out using a name other than the name of the personal name of the individual business actor, in some states in the United States, where the business activity is carried out, registration is required to obtain a *certificate assumed name, trade name, or fictitious name*.⁷

Low cost of organization, the rules regarding the requirements for the establishment of an individual business and the formalities needed at the time of establishment to start an individual business are very minimal. As a result, the costs required to start an individual business and the maintenance costs of individual businesses are relatively low. There is no minimum capital requirement to be provided to start an individual business, if there is one – it may only be related to *government filing fees*. Some possible costs that must be incurred are costs related to legal consultant services when using legal consultant services in starting an individual business. It may also be related to the publication fee for a *certificate of assumed name, trade name, or fictitious name*.

Income tax benefit, individual businesses have advantages related to the avoidance of *double taxation*, which often occurs in corporate business forms. *This double taxation* refers to the situation of imposing taxes twice on revenues obtained from business activities. The first income tax is imposed on the level of revenue earned by the company and the second time is imposed on income tax on individuals in the form of income tax through gaji received by employees or imposed on dividends paid on *shareholders*.

Some disadvantages of **running a business in the form of an individual business / trading business or sole proprietorship** *do bring some benefits as mentioned earlier, but there are also some* disadvantages, including; unlimited liability, lack of business continuity, no diversity in management, difficulty in transferring proprietary interest, limited ability in raise capital, and tax disadvantages.⁸

Unlimited liability, one of the most significant disadvantages of running a business with an individual business form is the unlimited liability of the individual business owner. An individual business owner shall be solely responsible for all debts and other obligations arising

from its business activities, including liability for the actions of employed persons or agents appointed in the course of carrying out its business activities, which are carried out within the scope of its work. This liability includes both assets owned by business entities and personal assets of business owners. Thus, there is no separation of business entity assets from personal assets, all of these assets become dependent on debts made in running their business. Insurance can be used as a means of reducing the risk of liability coverage, however, not all individual business risks will be borne by insurance companies given the high level of risk.

Lack of business continuity, the continuity of an individual business is very dependent on the existence of the individual business owner, thus death or illness that may be suffered by the individual business owner, can result in the cessation of the business, even though the business owner has several employees who run the business or have agents in running the business. The agency relationship will also end when the principal, the power of attorney, dies. In some cases, business owners can appoint people who represent them for the continuity of the business, which is often known as *legatee*⁹, but if the decision of business management depends on the owner, then the business activity will also experience difficulties in carrying out its activities.

No diversity in management, individual business owners are the central figure of all business management decisions, thus there is centralism and tends to be monopolistic, there is no variation in business management decisions. In a newly pioneered individual business, it is likely that the business owner does not have enough experience and insufficient expertise in company management matters, in contrast to directors or *shareholders* in the company.

Difficulty in transferring proprietary interest, when a situation occurs to sell individual business assets, then the transfer of all interests / property of the individual business will experience difficulties, it is because these business activities all use the identity of the individual business owner. The sale of assets of individual business owners may also be expensive unlike the sale of assets of companies that have gone viral, which can sell their shares through the capital market at a relatively affordable price. The sale of individual company assets may not only be difficult but also time-consuming, and expensive, because in some individual business assets an appraisal, or revalue, of the assets to be sold is required. Another difficulty that arises is calculating the economic value¹⁰ of goodwill from the individual business. As in economic theory that *goodwill* is derived from the reputation built by the company on the public image of a company, including the hope of business continuity of the business entity.

Limited liability to raise the capital, in some cases it is likely that individual businesses will have difficulty getting capital, either to start a business or develop a business. Lending financial institutions usually require collateral and feasibility of certain business ventures to be eligible for funding. Relying on individuals to obtain large loan funds will be difficult to do, not to mention that the business plan described in individual businesses may not be enough to convince financial institutions to provide large enough capital loans.

Problem Statement

1. How is the dynamics of individual business forms (*Sole proprietorship*) used as the choice of many business actors in carrying out their business activities, especially in terms of advantages and disadvantages of choosing individual business forms in Indonesia?
2. Are the existing regulations capable enough to regulate and accommodate the various basic characteristics of individual business entities compared to other forms of business?
3. What is the ideal arrangement of an individual business entity in Indonesia?

Theoretical Framework

Business activities in Indonesia have historically been based on special civil law for traders, namely the Commercial Law Code¹¹, activities carried out by merchants in the form of business activities with the act of purchase only with the object in the form of movable goods. In contrast to the company as all actions carried out continuously act outward to obtain income, by trading goods or entering into trade agreements. It can be said to be a company in terms of the separation of profit and loss that can be estimated and everything is recorded in a financial book. Various forms of business entities exist in Indonesia in this case the regulation of individual companies is still not regulated such as Limited Liability Companies, Partnership Manditers to cooperatives, The existence of *sole proprietorship* is more often known as a Trading Unit or Trading Company which in practice the business is carried out by individuals or can also be run as a civil partnership.

The monograph states that it can be said that a business entity must have the following elements¹²:

- a. Continuous ongoing
- b. Transparently
- c. In a certain causality
- d. Entering into trade agreements
- e. Earning profit
- f. Handing over goods

The Australian state has a separate *legal* entity or an entity immediately registered by ASIC as stipulated in Section 119 Corporations Act 2001 and a *sole proprietorship*, a separate company with shares providing security and protection to shareholders and directors. Companies that are limited to shares are also applied independently as legal subjects can directly conduct transactions / activities to third parties such as buying and selling company assets, to improve themselves with third parties or third parties with the company and to carry out legal actions using the company's name not on behalf of personal shares while sole proprietorship cannot directly make transactions with third parties, perform legal actions in the name of personal shares¹³. Full freedom is owned by business owners in determining business continuity in order

to make a profit, in the event of a loss, the continuity to maintain their business is possible mixed with personal assets.

This is different from the application of *sole proprietorship* in Indonesia which can be categorized as a separate civil property partnership against other members, the distribution of property in the event that the partnership is carried out by more than one person, the divided property must obtain the permission of all members.¹⁴ The Civil Code states that companies are not bound individually for all debts of the company and each company cannot bind other companies if there is no power of attorney to them. The dissolution of¹⁵ a civil partnership is regulated in Articles 1646 – 1652 of the Civil Code, while the dissolution of a civil partnership is due to:

- a. Expiration of the period stipulated in the agreement
- b. Destruction of goods used for the purpose of civil partnership or due to the achievement of that purpose
- c. Due to the will of several participants or one of the participants
- d. Because one of the participants dies, under custody, or other matters whose legal consideration is left to the court.

The categorization of business models in Indonesia is divided into legal entities and non-legal entities. The formation of a legal entity is based on laws and regulations while non-legal entities are not based on legislation in its formation.¹⁶ The position of sole proprietorship *is different from that of firms and private partnerships because of its position as a sole proprietorship established by the owner; in this case sole proprietor.* The legality of a sole proprietorship based on the type of business, industry, commercial or service.

The advantages possessed are¹⁷:

- (a). Low cost in forming a sole proprietorship
- (b). The owner has the right to take business decisions
- (c). The owner owns the entire business
- (d). The owner has the right to enjoy for himself all the profits of the business: and
- (e). Owners can easily transfer or sell business entities

The existence of a business entity in Indonesia is a non-legal entity which means that a business entity is established and owned by several entrepreneurs who jointly to obtain profits and a legal entity is a business entity established and owned by several entrepreneurs both by the private sector and whose capital is partly obtained from countries that have met the requirements of a legal entity and can run in the economic sector.

In comparison, there are provisions regarding the establishment of individual companies as contained in Article 153A number 3 of the CIPTAKER Law which states that establishing an individual company can be done by one person and by using a statement of establishment made

in Indonesian. This provision does not require that in its recasting there is no need for a notarial deed.¹⁸ The ratification of an individual company is submitted to the Ministry of Law and Human Rights to obtain a Decree of Ratification of Establishment as a legal entity so that later it can take legal action with third parties.¹⁹ The form of a legal entity in the form of an individual company must be categorized as a micro business as contained in Article 35 number 3 of PP No. 7 of 2021 that the capital of micro, small and medium enterprises having a maximum working capital of 1 billion rupiah is categorized as a micro enterprise, capital owned by more than 1 billion to 5 billion is categorized as a small business, While medium enterprises have more than 5 billion to 10 billion capital that does not include building assets and land owned.

Individual companies differ from *sole proprietorships* in the aspect of single ownership, while individual companies have ownership owned by at least two people. The need for ratification from the competent authority makes an individual company a legal entity. Holders of saham in individual companies for micro and small business scale do not have personal responsibility for the engagement made on behalf of the company and are not responsible for losses incurred in excess of the shares owned.

Legal protection by providing protection of human rights harmed by others in order to enjoy all rights provided by law.²⁰ Legal theory is used to study and analyze the form or form or purpose of legal protection, protected legal subjects and objects of protection provided by law to their subjects.²¹ Elements contained in the theory of legal protection include:

- a. The existence of a form or form of protection or purpose of protection
- b. Subjects of legal protection
- c. Objects of legal protection

While Philipus M Hadjon in the form of two protective measures in the form of preventive and repressive legal protection. Protection aimed at preventing is a preventive legal remedy to prevent disputes from occurring in the future and for the people to be given the opportunity to raise objections before a decision by the government is given. This preventive legal protection prevents the occurrence of *sengeta* and against things that can harm the interests of the community or the aggrieved parties.²²

The use of the theory of legal certainty as an analytical knife to find the ideal form of protection of individual business entities, legal certainty is aimed at human birth attitudes, does not question whether a person's mental attitude is good or bad, what is considered is how his outward actions are. Legal certainty does not sanction someone who has a bad mental attitude, but what is sanctioned is a manifestation of that bad mental attitude to make it a real or concrete action. According to Utrecht, legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions can and cannot be done. And the second is in the form of legal security for individuals from government arbitrariness because with the general rules, individuals can know what the state can charge or do to individuals.²³

Certainty in or from the law will be achieved if the law is based on the law, in which there are no conflicting provisions. The law is made based on legal reality and the law has no legal terms that can be interpreted differently. In addition, it is stated that certainty means that in concrete terms both parties to the dispute can determine their position. The duty of law is to ensure certainty in relationships found in social associations. Gustav Radbruch stated 4 (four) basic things related to the meaning of legal certainty, namely:²⁴

- a) that law is positive, meaning that positive law is legislation.
- b) That law is based on facts, that is to say, it is based on reality.
- c) that facts must be formulated in a clear way so as to avoid confusion in meaning, while being easy to implement.
- d) Positive law should not be easily changed.

RESEARCH METHODOLOGY

1. Types of Research

Normative juridical research refers to legal norms contained in laws and regulations and legal norms that exist in society. In addition, by seeing the synchronization of a rule with other rules in a hierarchical manner.²⁵ The law that applies at a certain time and place, namely a written rules and norms officially formed and promulgated by the ruler, in addition to written laws that effectively regulate the behavior of community members, in²⁶ this study is studied regarding the existence of individual business entity actors so that later the ideal form of legal protection of individual companies can be adopted.

2. Research Approach

This research uses *a statute approach* and *conceptual approach*.

- a. *Statue* approach or statutory approach is an approach used to review and analyze all laws and arrangements or regulations related to the legal issue being addressed.²⁷
- b. *Conceptual Approach* or conceptual approach is to move from the views and doctrines that develop in legal science.

3. Research Data Sources

a. Data Type

The types of data used in this study are primary data and secondary data, namely:

1) Primary Data

Primary data is data obtained through field surveys. Primary data are obtained directly from primary sources such as citizen behavior seen through research.²⁸ Primary data is a very important primary data. Primary data in legal research are data obtained mainly from the results of empirical research, namely research from the results of interviews, observations and

documentation carried out directly in the community.

2) Secondary Data

Secondary data is data collected, processed and presented by other parties. Both the form and content of secondary data have been formed and filled in by previous researchers so that subsequent researchers do not have supervision over the collection, management, analysis or construction of data.²⁹ This secondary data is obtained from a second source which is complementary. Secondary data includes official documents, books and research results that become the basis and reference material regarding individual business entities *sole proprietorship*.

b. Data Sources

The type of data used in this study is secondary data, while the primary data used is more supportive if needed. Secondary data are data obtained from document materials and wisdom in the form of legislation, court decisions, scientific articles and supporting scientific journals including data obtained from research objects.

4. Data Collection Techniques

The data collection taken in this study uses literature studies, namely data collection by searching, examining and reviewing secondary data.³⁰ In this research, document studies will be carried out as a means of collecting data related to the problems raised, namely literature studies / document studies (documentary study), sourced from laws and regulations, books, official documents, publications and research results.³¹

5. Data Analysis

Data analysis is the activity of breaking down the components and then examining the relationship of each of the entire contexts from various points of view. Qualitative data analysis by collecting words that are not processed into numerical data by using sentences that are described logically with added theories to give meaning and interpret each legal material that has been processed to then be described thoroughly so that a conclusion can be drawn and the results of the research are delivered descriptively.

RESEARCH RESULTS

Dynamics, Advantages and Disadvantages of *Sole Proprietorship* in Business Activities in Indonesia

Economic growth of a country is defined as the increase in the capacity in the long run of the country concerned to provide various economic goods and services to its population. The increase in capacity is determined by technological, institutional and ideological advances in various existing conditions. According to the view of economists there are four factors that affect economic growth, namely: the number of inhabitants, the amount of stock of capital goods, the area of land and natural wealth and the level of technology used. Although aware that economic growth depends on many factors, classical economics primarily devoted its

attention to the effect of population growth on economic growth.

Growth theory, for example, land area and natural wealth are fixed in number and the level of technology does not change. Based on classical growth theory, a theory was put forward that explained the relationship between per capita income and population. Empowerment is to create a balanced, developing, and equitable national economic structure so as to grow and develop the ability to become a responsible and independent business so as to increase the role of individual business entities in regional development, job creation, income equality, economic growth, and the eradication of people from poverty. The presentation above has explained the importance of individual business entities in the economy, so it requires strategic steps in empowering individual business entities as the center of an independent-based community economic center.³²

The ultimate goal to be achieved by a company is to obtain maximum profit or profit. To measure the level of profit of an enterprise used profit ratio or profitability ratio. The definition of profitability according to Riyanto describes the company's ability to earn profits through all existing capabilities and sources such as sales, cash, capital, number of employees, number of branches and so on. Company owners, especially company management, will try to increase profits because they realize how important profits are for the future of the company. For this reason, there are several profitability ratio indicators that can be used to measure the company's ability to earn profits.

The efforts of a business entity in obtaining profits by running its business form, in this case, various forms of business entities, business models used with various types of business, in this case, the business that is run can be in the form of services, sales of a processed product, consumer products. So that labor is one component of production factors that will also affect the level of production. The number of workers that continues to grow can be accompanied by investment that supports in creating jobs so that it can trigger the rate of Gross Domestic Product as a result of economic growth indicators.

Advantages and Disadvantages of Using Individual Business Entities

The types of companies based on the number of owners can be classified into sole proprietorships and partnership or cooperation companies. Individual companies are founded and owned by one entrepreneur, while several entrepreneurs work together in one partnership (*maatschap, partnership*).³³

Sole Proprietorship, or individual business entity is a company that is only owned by one person where all control and decision-making on the running of a company is in the hands of the company owner.³⁴ *Sole proprietorship*, or individual business entity or also known as sole proprietorship is the simplest form of a series of forms or organizations of business. The sole proprietor is the owner of all business assets and he is fully responsible for all debts incurred in the course of his business activities.³⁵ According to Schneeman (1993) a sole proprietorship, a simple form of business owned by one person, the sole proprietor, who is personally responsible for all debts and obligations of the business and who is entitled to all profits of the business.³⁶

In running a business in the form of *Sole Proprietorship*, or individual business entities or also known as sole proprietorships, of course, have various advantages and disadvantages of each. According to Schneeman, there are several advantages of running a business with an individual business form compared to a corporate business form, namely: ³⁷

1) The Business Owner has full management authority

Full management authority, meaning that business owners have full authority to manage their business activities in various ways that are considered good without having to ask for approval from business partners or directors as part of other forms of business.

Individual business owners do not require bureaucracy or time delays in their business decision-making process, as is required in other forms of business. Individual business owners can also delegate some of their authority by paying workers or employees or agents, but all of it is under the control of the individual business owner.

2) Formalities, regulatory requirements for formation and easy reporting of individual business entities

The minimum formalities or procedures and regulatory and reporting requirements, in many countries sole proprietorships do not arise due to regulations, therefore very few formalities must be followed to set up this business. However, this form of business must also be subject to a number of coercive conditions, such as licensing, tax rules, which are generally coercive rules applied to all forms of business, including individual businesses.

In addition, matters related to tax identification numbers that must be followed. In addition, if business activities are conducted under a name other than the personal name of an individual business person, in some states in the United States, where such business activities are conducted, registration is required to obtain a pseudonymous certificate., trade name, or fictitious name.

A pseudonym, trade name, or fictitious name certificate, a certificate, granted by the appropriate state authority to an individual or entity, which gives the right to use a false or fictitious name for business transactions in that state

3) Low cost of organization management,

Low organizational management costs, rules regarding the requirements of setting up an individual business and the formalities required at the time of establishment to start an individual business are minimal. As a result, the costs required to start an individual business and the cost of maintaining an individual business are relatively low.

There is no minimum capital requirement to be provided to start an individual business, if any - most likely only related to the *cost of registration (filling fee)* with the government. Some possible costs that must be incurred are costs associated with legal consultant services when using legal consultant services in starting an individual business. It may also be related to the cost of issuing pseudonym, trade name, or fictitious name certificates.

4) Income tax benefits

Benefits of income tax, individual businesses have advantages related to the avoidance of double taxation, which often occurs in the form of business entities. The imposition of double taxation refers to the state of imposition of double taxation on revenues obtained from business activities. The first income tax is imposed on the level of income earned by the company and the second is subject to income tax on individuals in the form of income tax through salaries received by employees or charged on dividends paid to shareholders.³⁸

Some of the advantages of running a business in the form of an individual business / *Sole Proprietorship or sole proprietorship* do bring some advantages as mentioned earlier, but there are also some disadvantages, including:³⁹

1) unlimited liability

Unlimited liability, one of the most significant disadvantages of running a business with an individual form of business is the unlimited liability of the individual business owner. The sole proprietorship owner shall be solely responsible for all debts and other obligations arising from his business activities, including being responsible for the actions of employed persons or appointed agents in carrying out his business activities, which are carried out within the scope of his work.. Liability includes both the assets of the business entity and the personal assets of the business owner. Thus, there is no separation of business entity assets from personal assets, all of these assets become a burden of debts incurred in running a business. Insurance can be used as a means to reduce liability risk, but not all individual business risks will be covered by insurance companies given the high level of risk.

2) lack of business continuity

Lack of business continuity, the continuity of individual business is very dependent on the existence of individual business owners, so that death or illness that may be suffered by individual business owners, can bind the cessation of business, even though the business owner has several employees who run the business or have agents in running the business. The agency relationship will also end when the principal, the power of attorney, dies. In some cases, the business owner may appoint a person who represents him for business continuity, who is often referred to as the testator (the person named in the will to be the beneficiary of the property). However, if the decision of the business manager depends on the owner, then the business activity will also experience difficulties in carrying out its activities.

3) there is no diversity in management

There is no diversity in management, the individual business owner is the central figure of all business management decisions, so there is a tendency towards centralism and monopoly, there is no variation in business management decisions. In an individual business that has just been started, it is likely that the business owner does not have enough experience and expertise in terms of company management, unlike directors or shareholders in the company.

4) difficulty in transferring ownership interests

Difficulties in the transfer of property rights, if there is a situation that must sell business assets from an individual business, then the transfer of all interests / assets of individual businesses will experience difficulties, this is because these business activities all use the identity of individual business owners. The sale of assets of individual business owners may also be expensive unlike the sale of assets of companies that have *gone public*, which can sell their shares through the capital market at relatively affordable prices. The sale of individual company assets may not only be difficult but also time-consuming, and expensive, as some individual business assets require an appraisal, or revaluation of the economic value, of the assets to be sold. Another difficulty that arises is calculating the economic value *of goodwill* of individual businesses. *Goodwill* is an intangible asset owned by a company derived from a favorable public image including sustainable business expectations of the public interest. As in economic theory, goodwill comes from the reputation that a company builds on a company's public image, including expectations for the business continuity of the business entity.

5) limited ability to raise capital, and tax losses

Limited obligation to increase capital, in some cases it is likely that individual businesses will have difficulty obtaining capital, both to start a business and develop a business. Lending financial institutions usually require certain guarantees and business feasibility to be funded. Relying on individuals to obtain large borrowed funds will be difficult to realize, not to mention that the business plan envisaged on individual businesses may not be enough to convince financial institutions to provide large enough capital loans.⁴⁰

CONCLUSION

The results showed that;

1. Indonesia is slowly starting to improve itself from various sectors of life. The emergence of Indonesian entrepreneurs can be the starting point for Indonesia's economic movement in a better direction. People's mindset about entrepreneurship gradually began to grow. Emerging jobs will certainly absorb labor. Indonesia is a country with a high population. Entrepreneurship in labor-intensive sectors is what is needed in Indonesia so that people's welfare can increase and can reduce unemployment and be able to increase the growth rate and economic welfare in Indonesia.
2. Establishment of an Individual Company is allowed to establish an individual company other than the individual company that is already owned. This establishment can only be done after a certain period of time after the establishment or ratification of the previous individual company legal entity. The minimum authorized capital of the company is handed over to the founders or shareholders as stated in the company's deed of establishment. When it comes to the form of a business entity, the agreement between the founders is the initial form of an association. The association then became the initial form of various forms of business entities. Regarding the agreement to establish the association, there are several expert opinions that hold different views.

3. Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) in which one of the clusters amends and adds provisions in the Law on PT. The Job Creation Law is expected to increase new jobs and increase domestic and foreign investment in Indonesia by streamlining statutory provisions

Footnotes

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- 3) Kenneth W. Clarkson, et al, West's Business Law, Tax, Cases, Legal and Regulatory Environment, US: West Publishing Company, 1992, p. 724
- 4) Henry R. Cheesemen. Business Law, Ethical, international & E.Commerce environment, New Jersey: Prentice Hall, 2001, p 630
- 5) National Center for Legal Analysis and Evaluation, Final Report of the Working Group on Legal Analysis and Evaluation Related to Business Entities, Jakarta: BPHN Kemenkumham, 2018, p1
- 6) Angela Schneeman, Op.cit., pp 7-8
- 7) Ibid, p. 5, Certificate of assumed name, trade name, or fictitious name, a certificate, granted by the proper state authority to an individual or an entity, that grants the right to use an assumed or fictitious name for the transaction of business in that state.
- 8) Ibid, pp 7-8
- 9) Legatee, person named in a will to be recipient of property.
- 10) Goodwill, an intangible asset owned by the company that is derived from its favorable public image includes expectations of continued business from the favor of the public.
- 11) HMN. Purwosutjipto, Basic Understanding of Indonesian Commercial Law: Company Forms. Jakarta: Djambatan, 1987, p.9
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- 23) Riduan Syahrani, *Summary of the Essence of Legal Science*, Bandung: Citra Aditya Bakti, 2009, p.23.
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- 26) Johan Nasution, *Legal Research Methods*, Bandung: Mandar Maju, 2008, p. 81.
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- 28) Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: UI Pres, 1986, p. 10.
- 29) Ibid, p 12
- 30) Suteki, *Op. Cit*, p 217
- 31) Zainuddin Ali, *Legal Research Methods*, Jakarta: Sinar Grafika, 2009, p. 105
- 32) Erman Rajagukguk, *Points of Economic Law*, Jakarta: Institute for Law and Economic Studies, Faculty of Law, University of Indonesia, 2011, p. 191
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