



Legal Implications of Separation of Regional Assets in Regionally-Owned Enterprises for the Protection of Public Assets and State Financial Accountability

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Abstract: This study analyzes the legal implications of the separation of regional assets in Regionally-Owned Enterprises (BUMD) on the protection of public assets and state financial accountability. The separation of regional assets, as regulated in Article 298 paragraph (5) of Law Number 23 of 2014 in conjunction with Law Number 9 of 2015, emphasizes that the separated regional assets constitute capital investment by the regional government to BUMD. After capital investment, these assets are no longer recorded as part of the Regional Revenue and Expenditure Budget (APBD), but become BUMD assets as a separate legal entity in accordance with Article 4 of Government Regulation Number 54 of 2017. This study uses a statutory and conceptual regulatory approach by analyzing the provisions of Law Number 17 of 2003 concerning State Finance, Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, and other derivative regulations such as PP 54/2017 and Permendagri 118/2018. The study results indicate that separated regional assets remain categorized as state finances as long as the regional government has significant ownership or control. Therefore, management of Regionally-Owned Enterprises (BUMD) is required to comply with Government Accounting Standards (PP 71/2010) and is subject to supervision by the Supreme Audit Agency (BPK) in accordance with Law Number 15 of 2004. Protecting public assets requires strengthening regional regulations, transparent oversight mechanisms, and the application of good governance principles to prevent misuse, uncontrolled privatization, and corruption, as specified in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. This study's recommendations emphasize the importance of regulatory synergy and an increased role of internal and external supervisors to ensure that separated regional assets continue to provide optimal benefits to the public.

Keyword: Separation Of Regional Assets, BUMD, Public Asset Protection, State Financial Accountability, BPK Supervision, Good Governance.

INTRODUCTION

The separation of regional assets in the establishment of Regionally Owned Enterprises (BUMD) is a crucial issue because it concerns the management of public assets and the fiscal independence of regional governments (Efridha, 2023). Article 331 of Law Number 23 of 2014 concerning Regional Government stipulates that regions may establish BUMDs to benefit regional economic development and increase regional original revenue (Ismail, 2022). This provision demonstrates that the separation of assets is not merely an administrative decision, but part of economic development policy (Sandi, 2023). Regional governments need to establish mechanisms to ensure that assets included as equity participation no longer become part of undivided regional assets, as stipulated in Article 1, number 10 of Government Regulation (PP) Number 54 of 2017 (Basri, 2021). This affirmation serves as a foundation for regions to manage assets professionally while adhering to state financial principles.

The relationship between the separation of regional assets and the protection of public assets is closely related to state financial accountability (Adrian Sutedi, 2022). Article 1, number 1 of Law Number 17 of 2003 defines state finances as all state rights and obligations that can be valued in money, including assets managed by the central and regional governments (Amtiran, 2020). When a regional government separates its assets to become the capital of a Regionally Owned Enterprise (BUMD), there is a shift in the status of the assets from regional public assets to assets of the BUMD, which stands as its own legal entity (Sutisna, 2025). This process requires transparent management so that public assets are not lost from public scrutiny and remain accountable. Clarity of asset status is important for effective oversight by the Supreme Audit Agency (BPK) as mandated by Article 23E of the 1945 Constitution and Law Number 15 of 2004.

Regionally Owned Enterprise (BUMD) governance issues often arise due to weak internal oversight and unclear boundaries between regional and BUMD assets (Hardani, 2025). BUMDs can become vulnerable to asset misuse if oversight mechanisms are not functioning properly (Putri, 2022). Government Regulation Number 12 of 2019 concerning Regional Financial Management stipulates that any regional government capital investment must obtain approval from the Regional People's Representative Council (DPRD) through a Regional Regulation (Hartono, 2024). Article 74 of the PP emphasizes the importance of political and administrative control before assets are separated into BUMD capital. This process prevents the transfer of assets without adequate legal legitimacy (Marisi, 2017).

The theory of state financial accountability provides a scientific basis for assessing whether the management of separated assets continues to comply with the principle of public accountability (Sitorus, 2025). Accountability requires transparency in financial reports, effective oversight, and compliance with government accounting standards (Juliyanti, 2023). Article 4 of Law Number 15 of 2004 mandates that all state financial managers, including regional governments, must submit financial accountability reports audited by the Supreme Audit Agency (BPK) (Putra, 2023). This principle remains valid when regional assets are transferred to regional-owned enterprise (BUMD) equity participation, as the initial source is public assets. Understanding accountability theory helps ensure that the separation of assets does not become an excuse to avoid oversight.

The theory of public asset protection within the realm of state administrative and financial law emphasizes that assets derived from state finances must be protected from misuse or unauthorized diversion (Wibowo, 2025). This protection includes the obligation of regional governments to establish regional regulations as the basis for any capital investment, as stipulated in Article 76 of Government Regulation No. 12 of 2019 (Anggoro, 2023). These provisions require a rigorous administrative process, including feasibility studies and risk analysis, before the allocation of assets. The administrative law perspective also positions

regional governments as shareholders responsible for safeguarding public interests in regionally owned enterprises (BUMD) (Suwandi, 2024). Public asset protection serves as an instrument for maintaining public trust in regional governance.

The principle of good governance is a crucial pillar to ensure that regionally owned enterprises (BUMD) are managed professionally and oriented toward public service (Arrofii, 2025). Good governance encompasses transparency, accountability, participation, and the rule of law, all relevant to BUMD management (Saskia, 2025). Government Regulation Number 54 of 2017, Article 4, emphasizes the application of good corporate governance principles in BUMD management. This principle requires a clear separation between the roles of local governments as regulators and as shareholders. Implementing this principle can reduce conflicts of interest and ensure that BUMDs operate efficiently and benefit the region.

Corporate governance of regionally owned enterprises (BUMD) is part of a more detailed set of governance principles, regulating management structures, decision-making mechanisms, and the relationship between shareholders and management (Daffa, 2023). The implementation of good corporate governance is further regulated through the Minister of Home Affairs Regulation Number 118 of 2018, which regulates business plans, budgeting, and financial administration for BUMDs. Article 12 of this Regulation requires BUMDs to prepare an annual business plan as guidelines for operations and accountability. Compliance with corporate governance principles ensures that segregated assets are managed for the public interest and not for the benefit of specific groups. A strong oversight structure minimizes the potential for irregularities.

Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments provides new regulations regarding the mechanism for regional capital participation. Article 68 stipulates that regional capital participation must be budgeted in the Regional Revenue and Expenditure Budget (APBD) and stipulated through Regional Regulations. This provision strengthens the legal framework for the separation of regional assets, as each step must go through a budget planning and approval mechanism. Thus, the process of separating assets becomes part of a transparent and monitorable regional fiscal policy. This obligation helps prevent unrecorded or unauthorized asset transfers.

Constitutional Court Decision No. 62/PUU-XI/2013 affirms that separated state assets, including equity participation in regionally owned enterprises (BUMD), remain within the scope of state finances as long as they originate from the state budget (APBN) or regional budget (APBD). This rule reinforces the view that even though assets have become BUMD capital, oversight and accountability remain within the framework of state financial law. The Constitutional Court's affirmation reinforces the argument that separating assets does not mean removing assets from the principles of transparency and accountability. Regional governments remain obligated to report and account for the value and use of these assets. This ruling provides legal certainty for BUMD management.

All these statutory provisions form a comprehensive legal framework for the separation of regional assets and the establishment of regionally owned enterprises (BUMD). From Law 23 of 2014 to Minister of Home Affairs Regulation 118 of 2018, each regulation provides complementary layers of protection and oversight mechanisms. Equity participation, the separation of assets, and the governance of BUMDs must follow clear procedures to achieve the goal of improving public welfare. Regional governments play a central role as shareholders and supervisors, while the Supreme Audit Agency (BPK) and the Regional People's Representative Council (DPRD) ensure that management processes adhere to state financial principles. This series of regulations provides a crucial foundation for the realization of professional and integrated public asset management.

METHOD

This research uses a normative juridical method with two main approaches, namely the statutory regulatory approach and the conceptual approach. The statutory regulatory approach is carried out through a systematic review of various legal provisions governing the separation of regional assets in Regionally Owned Enterprises (BUMD), starting from the statutory level to the implementing regulations. The main sources include Law Number 23 of 2014 in conjunction with Law Number 9 of 2015 concerning Regional Government, Law Number 17 of 2003 concerning State Finance, Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, Government Regulation Number 54 of 2017 concerning BUMD, Government Regulation Number 12 of 2019 concerning Regional Financial Management, and Regulation of the Minister of Home Affairs Number 118 of 2018 concerning BUMD Management. All of these regulations are analyzed to assess the legal status of separated regional assets, financial accountability obligations, and oversight mechanisms inherent in BUMD. A conceptual approach is used to explore relevant legal principles and theories, such as state finance theory, public accountability theory, and the concepts of good governance and corporate governance. This theoretical study serves to interpret the meaning of state finance, assess the position of regionally-owned enterprises (BUMD) as separate legal entities, and place regional asset management practices within a good governance framework. Primary legal materials, in the form of laws and regulations, are supplemented by secondary legal materials such as legal literature, scientific journals, previous research results, and relevant Constitutional Court decisions. The analysis is conducted qualitatively by interpreting legal norms, comparing provisions between regulations, and drawing logical conclusions regarding the legal implications of the separation of regional assets for the protection of public assets and state financial accountability.

RESULTS AND DISCUSSION

Analysis of the Legal Implications of Separation of Regional Assets on Efforts to Protect Public Assets and Strengthen Regional-Owned Enterprise Governance

The status of separated regional assets has a clear legal basis as stated in Article 298 paragraph (5) of Law Number 23 of 2014 concerning Regional Government in conjunction with Law Number 9 of 2015. This provision confirms that separated regional assets are capital invested by the regional government in Regionally Owned Enterprises (BUMD). This means that assets previously recorded as belonging to the regional government are transferred to become capital invested in BUMD to be managed professionally. This regulation is important because it determines the position of assets after separation and provides limits on management responsibilities that differ from the APBD mechanism. Understanding the legal character of this asset helps ensure that capital investment is carried out according to the rules.

The change in regional asset ownership following equity participation marks a significant shift from regional finances to regional-owned enterprise (BUMD) entities. Article 4 of Government Regulation Number 54 of 2017 states that separated regional assets are no longer recorded as part of the regional budget (APBD) but rather become BUMD assets as separate legal entities. This transition requires separate management from regional financial administration, as BUMDs have corporate autonomy. This regulation provides BUMDs with the opportunity to optimize their business management without being bound by rigid regional financial procedures. This clarity of status also confirms that management responsibility shifts to BUMD organs.

The rights and obligations of regional governments as shareholders or capital owners are affirmed in Articles 11 and 12 of Government Regulation 54/2017. Regional governments

have voting rights in the General Meeting of Shareholders (GMS) to determine the direction of company policy and receive dividends as a result of business activities. Furthermore, they are obligated to conduct oversight through reporting and audit mechanisms to ensure that regional-owned enterprise (BUMD) activities remain in line with their objectives. These rights ensure the public interest is maintained while simultaneously encouraging optimal BUMD management performance. The regional government's position as controlling shareholders provides a clear legal basis for active participation in strategic policymaking.

The legal status of regionally owned enterprises (BUMD) is regulated in Articles 5 and 6 of Government Regulation No. 54/2017, which provides a choice of legal entity forms: limited liability companies or regional public companies. The choice of legal entity form determines management patterns, accountability mechanisms, and asset governance. BUMDs in the form of limited liability companies are subject to Law No. 40 of 2007 concerning Limited Liability Companies, while regional public companies are specifically regulated by government regulations and regional regulations. The determination of the legal entity form impacts business flexibility, capital structure, and internal oversight mechanisms. Understanding these provisions is key to maintaining operational efficiency while safeguarding the interests of capital owners, namely, regional governments.

Identifying risks related to public asset management is crucial to preventing the divestiture or privatization of regionally owned enterprise (BUMD) assets without adequate oversight. Risks can arise from conflicts of interest between BUMD management and local governments, for example, in investment decisions or the sale of strategic assets. High-value public assets are vulnerable to being exploited for personal or group gain if oversight mechanisms are not stringent. Such practices have the potential to harm the public by reducing BUMD's capacity to provide public services. Risk assessments serve as the basis for designing effective protection strategies.

Legal instruments protecting public assets in regional-owned enterprises (BUMD) include regional regulations, cooperation agreements, and regional head regulations. Article 14 of Government Regulation 54/2017 mandates the creation of regional regulations regarding capital participation, including management and oversight provisions. Cooperation agreements with third parties must include clauses protecting the interests of regional governments to prevent detrimental asset transfers. Regional head regulations complement the technical provisions regarding the management and control procedures for BUMD assets. The presence of these multiple legal instruments provides a strong foundation for ensuring that assets remain managed in the public interest.

The Supreme Audit Agency (BPK) plays a crucial role in auditing the management and accountability of state finances, including regionally owned enterprises (BUMD). Article 6 of Law Number 15 of 2004 authorizes the BPK to audit BUMDs regarding the use and management of separated regional assets. BPK audits can uncover irregularities, non-compliance, or inefficiencies in asset management. Audit results serve as the basis for improving governance and imposing sanctions on those who violate regulations. This external oversight strengthens the control system to ensure transparent BUMD management.

Internal and external oversight is also carried out through the roles of the Regional Inspectorate, the Supervisory Board, and independent audits, as stipulated in Home Affairs Ministerial Regulation No. 118 of 2018. The Regional Inspectorate monitors the compliance of Regional-Owned Enterprises (BUMD) management with regulations, while the Supervisory Board is responsible for overseeing the performance of the board of directors. Independent audits provide an objective perspective on financial health and compliance of BUMDs with accounting standards. This multi-layered oversight system is expected to close the gaps in asset misuse. This mechanism also serves as a means of early detection of potential corruption.

The principles of Good Corporate Governance (GCG) must be implemented in the management of Regionally Owned Enterprises (BUMD) to achieve transparency, accountability, and social responsibility. The National Committee for Governance Policy (KNKG) guidelines and Article 92 of Law No. 40/2007 concerning Limited Liability Companies emphasize the importance of GCG implementation. This principle requires BUMD management to disclose material information, maintain integrity, and prioritize the interests of shareholders and the public. The implementation of GCG also increases public trust in BUMD's performance. Compliance with this principle is an indicator of professionalism and commitment to safeguarding public assets.

The Impact of Separation of Regional Assets on the Accountability System and State Financial Responsibility

The financial accountability of Regionally Owned Enterprises (BUMD) requires compliance with strict reporting standards in accordance with Articles 64 and 65 of Law Number 23 of 2014 concerning Regional Government, which are reinforced by Article 97 of Government Regulation Number 54 of 2017. These provisions require BUMDs to prepare annual financial reports audited by independent public accountants so that accountability for the use of regional capital can be verified professionally. These financial reports serve as an important instrument for assessing performance, detecting potential irregularities, and ensuring that allocated regional capital continues to be used for the benefit of the wider community. The independent audit process also serves as a preventative mechanism to minimize the opportunity for financial data manipulation. Compliance with these regulations strengthens the position of regional governments as shareholders and protectors of the public interest.

The implementation of Government Accounting Standards (SAP), as stipulated in Government Regulation Number 71 of 2010, stipulates that regional-owned enterprise (BUMD) financial reports must be presented in accordance with public sector accounting principles. This requirement requires BUMDs to consolidate their financial reports into regional government financial reports to maintain fiscal transparency. Preparing SAP-based reports facilitates inter-period comparisons and facilitates accurate, data-driven decision-making. This consolidation requirement also prevents the blurring of cash flows between BUMD entities and regional treasuries, allowing for comprehensive oversight. This principle of uniform reporting serves as a crucial foundation for ensuring that every rupiah of regional capital investment can be traced.

Financial transparency requires open access to information for the Regional People's Representative Council (DPRD) and the public. Regulations require that regional-owned enterprise (BUMD) financial reports be published on the official regional government website and submitted to the DPRD as a form of accountability to the people's representatives. This transparency of information increases public trust and enables the public to monitor the use of funds sourced from regional assets. This mechanism also strengthens the DPRD's position in carrying out its oversight function regarding capital participation policies and BUMD performance. The obligation to publish financial reports is a crucial pillar in realizing clean and integrated governance.

Oversight of regional-owned enterprise (BUMD) finances relies not only on external audits but also involves the Supreme Audit Agency (BPK), which has a mandate based on Article 6 of Law Number 15 of 2004. The BPK's role is to examine the management and accountability of state finances, including regional assets separated from BUMD. BPK audits include evaluating the effectiveness of internal controls, compliance with regulations, and BUMD financial performance. BPK findings can have implications for recommendations for improvements, administrative sanctions, and even legal proceedings if indications of

corruption are found. This BPK function ensures that BUMD financial management remains within the corridor of state accountability.

In addition to external oversight, internal control is also implemented through the Regional Inspectorate and the Regional People's Representative Council (DPRD) oversight mechanism, as stipulated in Home Affairs Ministerial Regulation No. 118 of 2018. The Regional Inspectorate is tasked with conducting internal audits, monitoring, and providing recommendations for improvements to weaknesses in the control system. The DPRD has the authority to request reports, summon BUMD directors, and provide input on regional asset management policies. Collaboration between internal and external supervisors creates a multi-layered control system capable of reducing the risk of financial irregularities. This synergy ensures that BUMD governance is carried out according to the principles of efficiency, effectiveness, and integrity. The presence of internal and legislative supervisors strengthens the security of public assets from corrupt practices.

The financial status of a Regionally Owned Enterprise (BUMD) remains bound by the definition of state finances as stipulated in Article 1, number 1 of Law Number 17 of 2003. State or regional assets separated through capital participation remain classified as state finances as long as the regional government has ownership or control. The characteristic of capital separation does not remove its status as part of state finances but only transfers its management to a BUMD legal entity. This status affirms BUMD's obligation to comply with the principles of state financial management, including accountability and transparency. This provision serves as a legal basis that ensures that state oversight remains in place even though regional capital has been placed in a business entity.

The relevance of separating regional assets is evident when local governments invest capital in regionally owned enterprises (BUMD) but retain significant control or influence. Majority share ownership or strategic voting rights categorize capital participation as state finances. Constitutional Court jurisprudence, such as Decision Number 48/PUU-XI/2013, confirms that separated state assets do not necessarily fall outside the definition of state finances if they are controlled by the state or regions. This decision strengthens the legal basis for the Supreme Audit Agency (BPK) and law enforcement officials to conduct audits and inspections of BUMD finances. This legal recognition protects BUMDs from legal loopholes that could potentially weaken public oversight.

The legal consequences for reporting and oversight become significant when a regionally owned enterprise (BUMD) manages public funds but is not recognized as a state financial entity. Failure to comply with oversight mechanisms can open the door to irregularities, abuse of authority, or corruption. Article 2, letter g of Law Number 17 of 2003, emphasizes that separated state assets remain state finances, requiring BUMDs to submit to the oversight of the Supreme Audit Agency (BPK). It is clear that regulation eliminates the possibility of narrow interpretations that could undermine accountability in regional capital management. This legal certainty serves as a crucial foundation for enforcing fiscal discipline and protecting public assets.

The potential for disputes and corruption poses a serious threat to the management of regionally owned enterprises (BUMD) due to their vulnerability to abuse of authority, project mark-up practices, and conflicts of interest. Articles 2 and 3 of Law Number 31 of 1999, in conjunction with Law Number 20 of 2001, provide a legal basis for prosecuting perpetrators of corruption within BUMDs. Financial disputes between local governments and BUMDs can arise regarding dividend payments, profit management, or the use of equity participation funds. Disputes can be resolved through civil courts, the State Administrative Court, or arbitration in accordance with the provisions of the BUMD's articles of association. Annual audits and investigative audits are important steps in preventing corruption with the implementation of a risk-based internal control system.

Comparisons with state-owned enterprises (BUMD) and international models provide insights into strengthening regional-owned enterprise (BUMD) governance. Law No. 19 of 2003 concerning State-Owned Enterprises (SOEs) mandates reporting to the Ministry of State-Owned Enterprises (MOSOEs) and the Supreme Audit Agency (BPK) as a rigorous accountability mechanism. Best practices such as those of Temasek Holdings in Singapore and Norway's sovereign wealth fund demonstrate that robust public oversight and transparent financial reporting enhance investor and public confidence. An analysis of regulatory differences between BUMDs and SOEs reveals control gaps that can impact accountability. The application of principles from proven international models can be adapted to regional legal systems to strengthen public asset protection and state financial accountability without compromising the essence of regional autonomy.

CONCLUSION

The separation of regional assets into Regionally Owned Enterprises (BUMD) does not eliminate their status as part of state finances as long as the regional government still retains significant ownership or control. This is in line with Article 1, number 1, and Article 2, letter g of Law Number 17 of 2003, which states that separated state or regional assets remain part of state finances. The legal implications of this provision require the implementation of strict accountability mechanisms through the obligation to prepare annual financial reports audited by public accountants, supervision by the Supreme Audit Agency (BPK), and internal control by the Regional Inspectorate. The existence of Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments and Law Number 23 of 2014 concerning Regional Government strengthens the foundation for regional capital management to protect against the risk of abuse of authority, potential corruption, and financial disputes. Protection of public assets and accountability of state finances can only be achieved if regional governments and BUMDs comply with government accounting standards, apply transparency principles, and maintain the integrity of financial reporting.

Legal recommendations and policy implications are aimed at strengthening regulatory synergy between Law Number 1 of 2022, Law Number 23 of 2014, and Law Number 17 of 2003 to avoid overlapping or gaps in oversight. The central and regional governments need to clarify the boundaries of authority for managing separated regional assets, including procedures for capital participation and reporting obligations for regionally owned enterprises (BUMD), to ensure effective oversight by the Supreme Audit Agency (BPK), the Regional People's Representative Council (DPRD), and the Inspectorate. Recommended policy strategies include implementing good governance principles through budget transparency, regular investigative audits, and strengthening the capacity of internal supervisors to detect and prevent irregularities early. Regional governments are advised to develop a digital reporting system integrated with the BPK and the Inspectorate, allowing real-time monitoring of the flow of information regarding regionally owned enterprise (BUMD) finances. This approach is expected to foster efficient governance, minimize the potential for corruption, and ensure that separated regional assets continue to provide optimal benefits for the public interest.

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