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Some Theoretical Issues about Assets and Income Auditing by State Auditors

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Abstract

Asset-Income declaration and auditing has been becoming hot issues in the revolution of anti-corruption in our country in recent years.

This study mainly use qualitative analysis methods, synthesis, inductive and explanatory methods, combined with law references.

Our research results show that asset-income declaration audit follows a process with several steps: planning, conducting audits, audit reports and examining audit conclusions.

We recognize that a transparent declaration audit will benefit the public in anti-corruption revolution.

Key-words: State Audit Law, Asset-income Declaration Audit, Vietnam, Anti Corruption. **JEL:** K00, K4, K40, K41.

1. Introduction

With the aim of assessing the truthfulness and reasonableness of the declaration of assets - income, especially assets - income of current senior officials is a very "hot" content and is being public opinion. Social concern, pressing. The State Audit cannot stand out when the public opinion and the press question the honesty of high-ranking officials in annual asset-income declaration. On the other hand, this is a new type of audit with the aim of preventing corruption, waste and being concerned by the Party and State. Therefore, the author determines the general and main objective of this article is to develop the theory of the audit of asset-income declaration performed by the State Audit.

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This paper organized with introduction, literature review, method, main results, discussion

and conclusion.

Research Questions:

Question 1: what are concepts of asset-income declaration and audit?

Question 2: what are features and process of asset-income declaration audit?

2. Literature Review

2.1. Literature Review

First, Burdescu et al (2009) specified Asset declaration systems, also referred to as financial

disclosure, or declaration of interest systems, are an important element of building successful

anti-corruption programs and a culture of integrity in public service. While the primary focus of this

guide is the creation of effective and efficient disclosure systems for public officials, the guide also

acknowledges that the role these systems play in detecting and preventing asset theft, can also assist

efforts to secure the return of stolen assets or proceeds of corruption.

Then, Hoppe et al (2013) mentioned that The declaration of assets, their sources and financial

obligations are made according to the requirements specified in the Asset Declaration Law and in the

form specified by the Inspector General.

Next, Noor et al (2015) stated that dividend, audit quality and free cash flow provide

significant constraints to accruals earnings management.

Last but not least, Dimitrijevic et al (2020) indicated that the auditors of the Republic of

Serbia more often encountered groundless overstatement of revenues compared with other countries,

while regarding manipulative representation of inventories, the largest mean value and median are

still among the auditors of the Republic of Serbia.

2.2. Concepts

The Concept of Asset - Income Declaration

Assets are the central and core issue of social relations in general and economic relations in

particular. The concept of assets and income has been mentioned a lot in practice in science subjects

and recognized in legal documents even in international treaties. Although there are many ways to

classify assets and income, in general, property and income only exist in two forms: money and

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valuable assets. Money can be Vietnamese currency, foreign currency, cash, check money ...;

Property has value regardless of objects, valuable papers, and property rights.

Asset and income declaration is a part of the process of controlling property and income of

State employees and employees. Declaration of assets and income is understood: "is the clear,

complete and accurate recording of assets, income, asset fluctuations, income of cadres, civil servants

and public employees. In asset control, the income the State uses to know each individual's activity

can generate assets, income, or otherwise control the flow of cash and other valuable assets regardless

of the objects, valuable papers and property rights that individuals obtain through the types of

activities that can generate assets and income in order to detect and prevent officials, civil servants

and public employees from receiving money and assets, valuable assets against the law or use their

property to commit acts of corruption". Therefore, the requirement to declare assets and income of

cadres, civil servants and public employees must ensure the clarity and clarity of information on

assets and income and ensure the truthfulness in declaration and responsibility. accountability of the

declarant.

3. Method and Data

We use information from the State Law of Audit and experience from auditors.

This study also uses qualitative analysis including synthesis, analytical and inductive

methods, combined with dialectical materialism methods.

4. Main Results

4.1. Contents of Asset-income Declaration

According to the 2018 Law on Anti-Corruption (Anti-Corruption), the assets and income must

be declared, including:

a) Land use rights, houses, construction works and other properties attached to land, houses,

construction works.

b) Precious metals, gems, money, valuable papers and other real property with each asset

valued at VND 50,000,000 or more.

c) Overseas assets and accounts.

d) Total income between 02 declarations.

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The Government Inspectorate stipulates the declaration form and the implementation of the asset and income declaration as Appendix 1 and Appendix 2 attached. This is the prescribed form for the declaration of income assets in 2018. In 2019, it is waiting for guidance from the Government's decree and the Government's Inspectorate's circular.

In our country, the Politburo's promulgation of Regulation No. 85-QD / TW dated May 23, 2017 on inspection and supervision of the asset declaration of officials under the Politburo, the Secretariat manages, demonstrating the spirit of setting an example and asking to set an example for senior officials in the declaration, inspection and supervision of property declaration. However, in terms of law, up to now, there are no specific and detailed legal documents regulating the control of assets and income of persons with positions and powers. In the current law, only the Anticorruption Law defines in principle the need to promulgate legal documents on declaration and control of assets and income of persons with positions and powers (Article 53 The Anti-Corruption Law stipulates: The Government submits to the National Assembly to issue legal documents on controlling income of people with positions and powers).

Through studying a number of legal documents (Anti-Corruption Law, Law on Personal Income Tax;...), it can be understood that controlling assets, income of people in positions and powers is the overall measure which the State uses to know changes in assets and income of persons with positions and powers; thereby, helping to detect, prevent, and recover assets due to corruption, or assets, income that cannot be verified of legal origin (illegal assets). However, the regulations still have limitations and difficulties in implementation. In other words, the current regulations on asset and income transparency mainly focus on controlling assets of those subject to declaration, the part on controlling income has not been specified.

On the international level, many documents and conventions, especially the United Nations Convention against Corruption, mentioned transparency and control over assets and income. Paragraph 5 of Article 8 of this Convention requires member states "where appropriate and in accordance with the fundamental principles of its law, each State Party shall endeavor to establish required measures and mechanisms. public officials report relevant issues to the competent authority, including business activities, outside investments, or property or gifts of great value, which may cause conflicts of interest. useful when they perform official duties". At the same time, paragraph 5 of Article 52 of the Convention states: "Each State Party shall consider establishing, in light of its national laws, an effective financial disclosure system for certain groups of civil servants and appropriate enforcement institutions for non-compliance. Each Member State shall consider taking

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necessary measures to allow the competent authorities to share this information with the competent

authorities of other Member States when necessary to investigate, and recovery of any property

obtained from committing crimes specified in this Convention".

World experience has also shown at least four factors for successful asset and income

declaration. First, it is necessary to delineate the officials that are required to declare, focus on the

most corrupt sectors and groups to facilitate management. Second, it is necessary to thoroughly verify

the declarations to define the motivational frameworks of the organizations and officials and to

maintain the credibility of the system. Third, when the verification is completed, the effectiveness

depends a lot on the ability to sanction officials who do not declare, declare dishonestly and punish if

the assets do not correspond to income. Fourth, the fact that people have access to property

declaration documents also helps to significantly reduce corruption. The application of international

experience in declaring income assets in Vietnam has profound implications in the current integration

context.

4.2. Theoretical Issues about Asset-income Declaration Auditing Concept

With the above meaning of asset-income declaration, the audit of income asset declaration

must be the subject of the Law on State Audit.

According to the provisions of the 2005 State Audit Law, the audit purpose contributes to

thrift practice, anti-corruption, loss, waste, and detection and prevention of law violations (Article 3).

Audit reports of the Law on State Audit are one of the bases for the People's Court, the People's

Procuracy and investigation agencies to use in the process of handling violations of economic and

financial laws (Article 9). The Law on State Audit is responsible for transferring documents to

investigating agencies and other State agencies that have the authority to inspect and handle cases

with signs of law violations of organizations and individuals that have been discovered through.

auditing activities (Article 15).

Law on State Audit 2015 effective from 01/01/2016, the Law on State Audit has the function

of evaluating, confirming, concluding and recommending for the management and use of finance,

public assets (Article 9); has the task of transferring dossiers to investigation agencies, the People's

Procuracies and other competent State agencies for consideration and handling of cases with signs of

criminals and law violations of agencies and groups. organizations and individuals discovered

through auditing activities (Article 10); Investigation agencies, People's Procuracies are responsible

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for receiving and solving according to their competence cases with signs of crimes discovered and

proposed by the Law on State Audit(Article 65).

According to the Law on Anticorruption 2005, within the scope, duties, powers, the Law on

State Audit is responsible for organizing the audit in order to prevent, detect and coordinate the

handling of corrupt acts; In case of detecting acts of corruption, the dossier shall be transferred to the

investigating agency, the People's Procuracy and other competent State agencies for handling

(Article 77).

Audit of asset declaration for civil servants and public employees is an activity of the Law on

State Audit's inspection and assessment on the declaration of assets and income of officials and

employees in the term of office. through checking and evaluating the truthfulness, legality and

efficiency of their asset and income declaration.

The Law on State Audit is only a coordinating agency, not an agency in charge of declaring

assets and income of cadres and civil servants, especially central-level officials. The Government

Inspectorate is the unit that takes the lead and takes the lead in controlling assets and incomes of

officials, including declaration of assets and income.

4.3. Property-income Audit Feature

Firstly, this is a mixed audit, mainly compliance audit combined with operational audit for

economic activities and public financial management, public assets associated with management

responsibility. management of leading officials. That is not organized as a separate audit but

integrated into the economic responsibility audit of the manager;

Second, this is a particularly complex type of audit, which should be done by experienced

auditors; SAV only coordinates many agencies to implement; It has "very high political sensitivity",

so it is absolutely necessary to keep confidential information in the course of performing tasks

(in many cases, it is required to do so at the request of the authorities because it directly affects the

results, objectives of the audit).

Third, the audit of income assets declaration for central management officials has the main

scope related to anti-corruption.

Fourth, the SAV controls the asset - income declaration within the SAV, while for other

agencies is done in a coordinated capacity. Therefore, the SAV only has the function of informing

and transferring records to other agencies.

Fifth, the purpose of an income asset declaration audit is to provide an opinion on the fairness

of an employee's income asset declaration in accordance with the Anti-Corruption Law, but is done

through through consideration and examination to evaluate, attribute economic responsibility to

management leaders. Therefore, this type of audit is seen as a special form for the authorities to have

a basis to evaluate management staff.

4.4. Audit Object, Objectives and Content of the Asset - Income Declaration Performed by the

State Audit Law

Auditor: Income-asset declaration of central-level officials (including: Leadership managers at

Party agencies, central governments and mass organizations and at local levels (collectively referred

to as leaders of state agencies); leading managers in SOEs or state-dominated enterprises). Depending

on the requirements, conditions and capacity of the SAV, countries can audit all of the above subjects

or conduct a pilot audit of some specific subjects for replication when conditions permit.

The objective of the asset-income declaration audit for central management officials: is to

comprehensively assess the capabilities, qualities and abilities of managers to prevent embezzlement,

corruption and waste cause loss of State assets, contributing to boosting the efficiency of current

public organizations.

Content: (1) for the leaders of state administrative agencies, the audit content includes public

financial management, public property, asset - income declaration; (2) for SOE leaders, the audit

contents include: Honesty, legality of assets, capital sources; business results;

The preservation and increase in state equity in the enterprise; results of capital contribution in

joint ventures and associates; the performance of the enterprise's obligations to the state budget;

Compliance with laws, policies, regimes for economic management, finance, accounting,

asset-income declaration ... in the enterprise. Specifically: auditing the management staff's asset

statement according to regulations by comparing and requesting an explanation of the difference or

increase in bonuses for the assets of management leaders or property of spouses, children of

managers with annual income and asset statements.... Contents of inspection and verification for

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income asset declaration include:

• Fidelity, completeness and clarity of the declaration.

• Honesty in explaining the origin of the additional assets and income.

ISSN: 2237-0722 Vol. 11 No. 2 (2021) 4.5. Characteristics of the Subject, Object and the Time of Audit of the Asset-income

Declaration

Regarding the subject of auditing, the State Auditor (Auditor) is the subject of auditing the

income asset declaration within the SAV.

Regarding the auditing object, the object of the audit the asset declaration is the cadres, civil

servants and employees of the organizations subject to income asset declaration. Article 34 of the

Anti-Corruption Law specifies that the persons obliged to declare assets and income include:

1. Officials and civil servants.

2. People's Public Security Bureau; officers of the People's Army, professional servicemen.

3. Persons holding positions of deputy head of the division and equivalent or higher working

in public non-business units, state enterprises, or persons appointed to act as

representatives of state capital in enterprises.

4. Candidates for National Assembly deputies or People's Council candidates.

About the time of the audit for the asset declaration of the leaders of the agencies should be

done when the leading staff ends their working term or before the transfer, assignment,

reappointment, or exemption resignation, dismissal, resignation or retirement. The most appropriate

time is to do so before the appointment of a manager preparing to take on a higher, more important

management position or before the organization considers whether to reapply for an additional term.

those leaders, managers. Because misplacing a leader can damage an entire system; The existence of

the system or not depends greatly on the head.

The time for an audit of the state-owned enterprise (SOE) leaders' assets to be audited is

before the enterprise leaders finish their term of office or move to another position, are dismissed or

resigned, Retiring or at the same time with enterprises changing their organizational structure,

merging, selling, leasing, equitization ... must conduct an audit in accordance with the current

regulations of the State.

In addition, it is possible to audit the asset declarations of the two types of officials mentioned

above when there is an unexpected request from the staff management agency and authorities (For

example, when there are signs of violation by complaint, denunciation or other request for

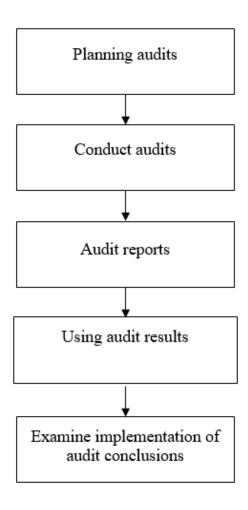
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verification). However, these cases should be assigned to the state inspection agency to implement and depend on the mechanisms and laws of each country.

4.6. Asset - Income Declaration Audit Process

Auditing of the asset - income declaration performed by the SAV is that the state auditor conducts inspection, verification and gives opinions on the truthfulness of the process of declaration and the income asset declaration of the officer, that set. Audit process is the audit process of each specific audit, that order has been arranged in an order consistent with the objective developments of the audit, in accordance with the regulations, law and real situation. The process of auditing the income asset declaration of central management staff is described as follows:



As mentioned above, the main purpose of this article is to develop theories on asset-income declaration audits performed by the SAV. In practice, there may not be a separate audit of income asset declarations. However, if an audit can occur, it is essential to follow the audit procedure

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outlined above. At the same time, the SAV must conduct inspection and verification to find

appropriate and complete evidence to prove that the declaration of income assets of an employee is

honest and transparent.

At the audit planning step:

*According to Article 41 of the Anti-Corruption Law 2018, the Asset-Income Control Agency

(including the SAV) verifies assets and income when there is one of the following bases:

a) There is a clear sign of untruthful declaration of assets and income.

b) There is an increase in assets or income from 300,000,000 VND or more compared to

assets or income declared in the previous time but the obligor makes unreasonable

explanation about the origin.

c) There is a denunciation of untruthful declaration of assets and income and the eligibility

for acceptance in accordance with the Law on Denunciation.

d) In the case of verification according to the annual asset and income verification plan, for

the randomly selected person with the obligation to declare.

e) There is a request or recommendation of a competent agency, organization, unit or

individual.

The Government shall detail criteria for selection of verified declarants and the elaboration

and approval of the annual asset and income verification plan of the Asset and Income Control

Authority.

*After having grounds for verification or when deeming that more information is needed to

serve the work of cadres, the following agencies, organizations and individuals have the right to

request or propose to the property control agency, Income (including SAV) asset and income

verification decisions:

a) The Standing Committee of the National Assembly requests verification of the person

expected to be elected, approved or appointed by the National Assembly, the Standing

Committee of the National Assembly, the person expected to be appointed Deputy State

Auditor General.

b) The President requests verification of the person expected to be appointed Deputy Prime

Minister, Ministers, Heads of ministerial agencies, Deputy Chief Justices of the People's

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Supreme Court, Judges of the Supreme People's Court, Deputy Head of the Supreme

People's Procuracy, Procurator of the Supreme People's Procuracy.

c) The Prime Minister requests verification of the person expected to be appointed Deputy

Ministers and equivalent positions under the Ministries, Ministerial-level agencies, the

heads and deputies of the Government-attached agencies, persons expected to be elected or

proposed for approval of the positions of President and Vice President of the People's

Committee of the province.

d) The Chief Justices of the People's Supreme Court request verification of the person

expected to be appointed Chief Justices, Deputy Chief Justices of the People's Court at all

levels, the Head of the Supreme People's Procuracy requests verification for the person

expected to be appointed heads and deputy heads of the People's Procuracies at all levels.

e) The Standing Committee of the People's Council requests verification of the person

expected to be elected or approved by the People's Council or the Standing Committee of

the People's Council.

f) Presidents of the People's Committees of provinces and Presidents of the People's

Committees of districts request verification of the person expected to be elected or request

the approval of the position of President or Vice President of the People's Committee at the

lower level. Continued.

g) National Election Council, Election Commission or Vietnam Fatherland Front Committee

requests verification of National Assembly candidates or People's Council candidates;

h) Standing agencies of political organizations, socio-political organizations request

verification of persons expected to be elected at congresses of political organizations,

socio-political organizations.

i) The head of an agency, organization, unit or person with authority to manage officials, for

the person who is obliged to declare verification requests or recommendations for the

person with the obligation to declare under its management. for their direct use.

Inspection agencies, SAV, investigation authorities, People's Procuracies, People's Courts and

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other competent agencies and organizations have the right to request asset and income control

agencies to verify assets, income if, during the course of examination, inspection, audit, investigation,

prosecution, adjudication, judgment enforcement, it is deemed necessary to clarify assets and income

related to the law violation.

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*According to current regulations, the head of the Asset and Income Control Agency shall

issue a decision on asset and income verification within 05 to 15 working days from the date of the

verification basis. For the SAV decision-making authority is the General Auditor. A decision on asset

and income verification includes the following contents:

a) Bases for issuing the verification decision.

b) Full name, title and working place of the person whose assets and income are verified.

c) Full name, title and working place of the group leader and members of the asset and

income verification team.

d) Content of verification.

e) Verification period.

f) Tasks and powers of the Team leader and members of the asset and income verification

team.

g) Collaboration of agencies, organizations, units and individuals (if any).

The decision on asset and income verification must be sent to the Team leader and members

of the Asset and Income Verification Team, the verified person and relevant agencies, organizations,

units and individuals within 03 working days from the date of the verification decision.

*The income and asset verification team includes the Team Leader and members. For the

SAV, this is called the Auditing Team. In case the verification content contains complicated details

and involves many agencies, organizations or units, the head of the asset and income control agency

may request such agency, organization or unit to have related people to join the asset and income

verification team.

Failure to arrange for a participant in the Income and Asset Verification Team to be the

spouse, father, mother, child, sibling of the verified person or another person with grounds to believe

that such person may not impartial, objective in verifying assets and income.

The leader of the asset and income verification team has the following duties and powers:

a) Request the verified to explain the truthfulness, completeness and clarity of the declaration,

the origin of the property, the increase in income compared with the previous declared

assets or income.

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b) To request agencies, organizations, units and individuals to provide information and

documents related to the verification contents according to the provisions of Clause 3,

Article 31 of the Law on Anticorruption 2018.

c) To propose competent agencies, organizations or units or agencies, organizations, units or

individuals managing assets and incomes to take necessary measures according to law

provisions to stop the dispersal, destruction, displacement of assets or income or other acts

obstructing asset and income verification activities.

d) To request competent agencies, organizations and individuals to conduct valuation, price

appraisal, and assess assets and income for verification.

e) Report in writing the result of asset and income verification to the verification decision

issuer and take responsibility before law and the person who makes the verification

decision for the contents of the report.

f) Keep confidential information and documents collected during the verification process.

Members of the asset and income verification team (audit team members) have the following

duties and powers:

g) Collect information, documents, verify on-site assets and income and perform other tasks

as assigned by the Team Leader.

h) Propose the Team Leader to apply necessary prescribed measures to ensure the

performance of assigned tasks.

i) Report the results of performing the assigned tasks to the Team Leader and take

responsibility before the law and the Team leader for the contents of the report.

j) Keep confidential information and documents collected during the verification process.

At the step of performing the audit:

• Ask the verified person to explain their assets and income.

• Conduct asset and income verification by appropriate methods.

• Rights and obligations of property and income verified person:

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• Explanation on the truthfulness, completeness and clarity of the declaration, the origin

of the additional assets and income.

Provide information related to the verification content at the request of the Asset and

Income Verification Team and take responsibility for the accuracy of the provided

information.

To fully and promptly comply with requests of the asset and income verification

team, competent agencies, organizations and individuals in the asset and income

verification process.

To execute handling decisions of competent agencies, organizations or individuals on

asset and income control.

• Complain about competent agencies, organizations or individuals' decisions and acts

in verifying assets and income when there are grounds to believe that such decisions

or acts are illegal, infringe on their rights and interests legal benefits.

Report violations of the law by competent agencies, organizations and individuals in

verification of assets and income.

• To have their honor restored, their infringed legitimate rights and interests restored,

and compensated for damage caused by the property verifier's violations of the law

according to the provisions of the law.

At the step of reporting audit results:

State Audit Law reports on audit results of asset-income declaration for officials managed by

the State Audit Law. For other entities, as a coordinator, the State Audit Law considers the following:

• Within 45 days from the date of the verification decision, the Head of the Income and

Asset Verification Team must report in writing the results of asset and income verification

to the verification decision maker; In complicated cases, the time limit may be extended

but must not exceed 90 days.

A report on the results of asset and income verification includes the following contents:

a) Content to be verified, verification activities have been conducted and verification

results.

b) Evaluation of the truthfulness, completeness and clarity of the declaration; honesty in

explaining the origin of additional assets and income.

c) To propose handling of violations of the law on control of assets and income.

• Within 10 days after receiving the asset and income verification result report, the

verification decision issuer must issue a conclusion of asset and income verification; In

complicated cases, the time limit may be extended but not more than 20 days.

• Income and asset verification conclusions include the following contents:

a) The truthfulness, completeness and clarity of asset and income declaration.

b) Honesty in explaining the origin of the additional assets and income.

c) To propose competent persons to handle violations of the law on control of assets and

income.

• The issuer (State auditor) Conclusion of asset and income verification must be responsible

for the objectivity and truthfulness of the verification conclusion.

• Income and asset verification conclusions must be sent to the verified person and agencies,

organizations, units and individuals requesting verification in accordance with the law.

The verified person has the right to appeal Conclusion of asset and income verification in

accordance with the law on complaints.

At the step of using audit results:

State Audit Law publicly concludes verification of assets and income for officials under the

management of the State Audit Law. For other agencies before transferring verification documents to

the authorities, the State Audit Law considers the following issues:

• Within 05 working days from the date of issuance of the verification conclusion of assets

and income, the asset and income verification decision maker is responsible for publicizing

the verification conclusion.

• The publicity of assets and income verification conclusions are done like the declaration of

the declaration.

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At the step of checking the implementation of audit conclusions, the State Audit Law only

checks for the audit the declaration of assets of officials under the management of the State Audit

Law and other agencies when required according to the provisions of law. the law.

5. Discussion

Why Must Declare Assets - Income?

Requiring public officials, public servants and people elected to state agencies to declare

assets and income is considered an effective mechanism to promote social justice, especially to

prevent corruption. big corruption. In particular, the declaration of assets and income aims to achieve

three goals: First, prevent conflicts of interest by clarifying when officials have a personal interest in

making decisions. Second, prevent bribes or illegal revenues by forcing officials to account for

suspicious increases in assets. The third goal also related to this issue is that declaration forms the

basis for investigating and prosecuting criminals in corruption cases.

6. Conclusion

Asset-income declaration is an effective tool to build a socialist rule of law state, and urge the

leadership to operate according to the rule of law. Whether or not the leaders of the leadership

seriously comply with the laws of the State or not, strictly obey the policies of the Party and State or

not, make decisions and handle matters according to the legal or not... directly reflects the capacity

and qualifications of management according to the law of the leaders, partly reflected in the honest

asset-income declaration. This also relates to the strategy of building a socialist rule of law state and

state management by law. The importance of the state management by law is strictly obeying,

managing according to the law, working by law - the most important stage of socialist legislation.

Implementing the asset-income declaration monitoring regime for leaders has a practical effect on

promoting leaders' self-awareness to increase legal awareness and legal awareness, learn and apply

successful legal methods to lead economic work, social management, standardize their own

administrative behavior, guide leaders to manage and use powers properly.

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