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Legal Reconstruction of Tax Collection on Crypto Assets and Non-Fungible Tokens (NFT) in the Perspective of Legal Certainty and State Financial Revenue

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ABSTRACT

Indonesia's crypto asset and Non-Fungible Token (NFT) ecosystem has grown at a pace that substantially outstrips its regulatory readiness. By early 2025, the number of domestic crypto users had reached 22.9 million accounts, with total transaction value throughout 2024 amounting to IDR 650.61 trillion — positioning Indonesia as one of Southeast Asia's largest crypto markets. Against this backdrop, cumulative tax revenue from the sector stood at only IDR 1.19 trillion since 2022, falling far short of its actual fiscal potential. This study examines two core issues: first, how the legal construction of crypto asset and NFT taxation stands up to scrutiny under the principle of legal certainty in tax law; and second, whether the current tax collection mechanism adequately satisfies the principles of equity and efficiency as instruments of state revenue. Employing normative legal research with statutory and conceptual approaches, this study finds that Indonesia's crypto tax framework contains significant normative gaps, most notably the absence of any specific legal basis governing NFT taxation. The successive amendments from PMK 68/2022 through PMK 81/2024 to PMK 50/2025 reflect an adaptive effort that remains incomplete. From a fiscal equity perspective, the flat-rate Final Income Tax scheme is inconsistent with the ability-to-pay principle, as it treats small and large investors identically. This study concludes that statutory-level regulation explicitly addressing NFTs is urgently needed, alongside a shift toward a more equitable rate structure.

Introduction

In recent years, the development of crypto assets in Indonesia has shown a very significant acceleration, both in terms of the number of users and the value of transactions (Tauda et al., 2023). This transformation not only reflects the wider adoption of digital technology, but also marks a fundamental shift in the way society views investment instruments (Jaman et al., 2024; Magalhães, 2023). Data shows that in 2021 the value of crypto transactions in Indonesia reached IDR 859.4 trillion, and despite fluctuations, trading activities remain at a high level with transaction values throughout 2024 of IDR 650.61 trillion and the number of users reaching 22.9 million people in early 2025. This development indicates that crypto assets have shifted from being just a speculative instrument to being part of an increasingly calculated investment portfolio (Pandey & Gilmour, 2023; Widhiyanti et al., 2023).

The change in the supervisory institutional status from the Commodity Futures Trading Supervisory Agency (Bappebti) to the Financial Services Authority (OJK) since January 10, 2025 is also an important point in the evolution of the crypto asset legal regime in Indonesia (Dwiyoenanto et al., 2024; Sitompul, 2022; Truby et al., 2025). Through the Financial Sector Development and Strengthening Law (P2SK Law), crypto assets are no longer classified as commodities, but as digital

financial assets. This shift in classification has broad juridical implications, especially in the aspect of tax regulation and imposition, because the legal approach used to commodities is certainly different from financial instruments (Paramitha & Ramadhani, 2023).

On the other hand, from a fiscal perspective, the government has started collecting taxes on crypto transactions since 2022. The Directorate General of Taxes noted that tax revenues from this sector reached IDR 1.19 trillion until early 2025. However, when compared to the total transaction value that reaches hundreds of trillions of rupiah every year, the tax contribution is relatively small (Rahman & Jin, 2023). This condition shows an imbalance between the available fiscal potential and the realization of state revenue. This phenomenon raises fundamental questions about the effectiveness of the existing tax regulatory framework, especially in reaching economic activities based on blockchain technology that are cross-border, anonymous, and decentralized.

The problem has become increasingly complex with the emergence of Non-Fungible Tokens (NFTs) as a new form of digital assets. NFTs have unique characteristics because they represent ownership of digital assets that cannot be exchanged with each other. Unlike crypto assets such as Bitcoin or Ethereum which are fungible, NFTs are more like digital certificates of ownership over works of art, music, or other virtual objects (Aliyev et al., 2023; Jayasuriya & Sims, 2023; Rahman & Jin, 2023). In the context of tax law, this characteristic poses difficulties in determining the right tax object, whether it is categorized as goods, services, or even intellectual property rights (Aliyev et al., 2023; Jayasuriya & Sims, 2023; Truby et al., 2025).

Current tax regulations, including Minister of Finance Regulation Number 68/PMK.03/2022 and Minister of Finance Regulation Number 50 of 2025, still focus on crypto asset transactions in general and have not explicitly regulated NFTs (Paramitha & Ramadhani, 2023). This regulatory void creates a wide scope of interpretation, both for taxpayers and tax authorities. As a result, legal uncertainty arises that has the potential to cause injustice, both in the form of tax potential that is not explored optimally and the risk of disproportionate tax burden for digital economy actors.

In academic studies, a number of previous studies have generally focused on the legality aspect of crypto assets as a trading object or on the tax collection mechanism in general (Dominguez & Rusakova, 2022; Ness, 2024; Pandey & Gilmour, 2023; Paramitha & Ramadhani, 2023; Yongkie & Disemadi, 2022). However, there are still limitations of studies that specifically integrate the analysis between changes in the legal status of crypto assets as digital financial assets and their tax implications, especially in the context of the principles of legal certainty, justice, and efficiency. In addition, studies that comprehensively discuss NFT as a tax object in the Indonesian legal system are also still very limited. This is the research gap in this study, namely the lack of an in-depth and integrated analysis of the legal construction of taxation of crypto assets and NFTs after the change in the supervisory regime and its implications for basic principles of taxation.

Based on this gap, this research offers a novelty in the form of an analytical approach that not only looks at the normative aspects of the applicable tax regulations, but also examines the suitability of the legal construction with the unique characteristics of digital assets, especially NFTs. This research also places the principles of legal certainty, justice, and efficiency as the main analytical framework to evaluate whether the existing tax system has been able to adequately accommodate the development of financial technology. Thus, this research is expected to make a conceptual and

practical contribution in formulating a more adaptive and responsive digital asset tax policy direction.

Departing from this description, this study formulates two main problems. First, how the legal construction of tax regulation on crypto assets and NFTs is reviewed from the principle of tax law certainty. Second, whether the applicable tax collection mechanism has met the principles of fairness and efficiency as a source of state financial revenue. The answers to these two questions are expected to be a juridical basis in efforts to improve digital asset tax regulations in Indonesia.

Method

This research uses a normative legal research approach that focuses on the analysis of legal norms contained in various written legal sources (Sumarna & Kadriah, 2023). This approach was chosen because of the problems studied related to the legal construction of crypto asset and NFT taxes in the Indonesian legal system. Therefore, this study focuses on the study of primary, secondary, and tertiary legal materials as a basis for formulating juridical arguments.

The primary legal materials in this study include relevant laws and regulations, including the 1945 Constitution, Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (P2SK Law), State Finance Law, Value Added Tax Law (VAT Law), Income Tax Law (Income Tax Law), as well as implementing regulations in the form of PMK 68/2022, PMK 81/2024, and PMK 50/2025. Meanwhile, secondary legal materials include scientific literature such as tax law textbooks, journal articles, and government official reports, while tertiary legal materials in the form of legal dictionaries and tax encyclopedias are used to strengthen conceptual understanding.

This study applies a statute approach to examine the hierarchy, consistency, and harmonization between regulations governing crypto asset tax, as well as a conceptual approach that utilizes the concepts of legal certainty, fiscal justice, and tax collection efficiency as an analytical framework. All legal materials were collected through library research and analyzed qualitatively using prescriptive methods, so that this study not only identifies weaknesses in the existing regulation, but also offers a relevant and applicable juridical reconstruction.

Results and Discussion

1. Legal Construction of Crypto Asset and NFT Taxes: An Overview of the Principles of Legal Certainty

Legal certainty (rechtzekerheid) is the main foundation in any legal system that functions to ensure that norms can be understood, predicted, and applied consistently. Lon Fuller emphasized that law must meet the principles of openness, consistency, and non-arbitrariness, while Gustav Radbruch placed legal certainty as one of the basic values besides justice and usefulness (Reumi et al., 2025). In the context of taxation, legal certainty is not only normative, but also operational, namely regarding clarity regarding tax subjects, tax objects, rates, and collection mechanisms that can be understood by taxpayers.

In regulating crypto asset taxes in Indonesia, a normative framework has been established

through the Regulation of the Minister of Finance which stipulates crypto as an Intangible Taxable Goods and imposes VAT and Final Income Tax. Textually, this construction seems to have fulfilled the element of legal certainty because it provides an object definition, determines tariffs, and regulates collection procedures. However, if analyzed more deeply, the resulting legal certainty is still formal and administrative and has not touched the broader substantive dimension.

The fundamental problem arises from the character of the legal instruments used. Dependence on the Regulation of the Minister of Finance as the main basis of regulation creates vulnerability to rapid and unpredictable changes. In a relatively short period of time, there have been several regulatory changes that include aspects of tariffs and collection mechanisms. This phenomenon shows that the norms that govern crypto taxes do not have adequate stability. From the perspective of legal certainty theory, this condition has the potential to cause normative uncertainty because taxpayers are faced with constantly changing rules without sufficient adaptation intervals.

Empirically, the dynamics of these regulatory changes have an impact on taxpayers' compliance behavior. Compliance is not only determined by the amount of tariffs, but also by the ease of understanding the rules and the consistency of their application. Too frequent regulatory changes increase compliance costs, both in the form of the need to update information, adjust administrative systems, and the risk of errors in reporting. In practice, many crypto market players, especially retail investors, do not fully understand these changes, so they have the potential to cause non-compliance that is not caused by tax avoidance intentions, but by the complexity of the regulations themselves.

In addition to stability issues, another weakness can be seen in the aspect of the completeness of the norms, especially in the regulation of Non-Fungible Tokens (NFTs). Until now, NFTs have not been explicitly regulated in the Indonesian tax regime, even though their economic activities have developed significantly. NFTs have different characteristics from conventional cryptocurrencies because they contain elements of unique ownership, artistic value, and are often related to intellectual property rights. When NFTs are implicitly positioned as part of crypto assets without special arrangements, there is a simplification that actually obscures legal certainty. As a result, NFT transactions do not have clear guidelines regarding the tax obligations that must be met.

This condition shows that the construction of crypto tax law in Indonesia is still in the transition stage. Administrative clarity has indeed been achieved for crypto transactions carried out through registered exchanges, but legal certainty in a broader sense is still not fulfilled due to the weak stability of norms and the incomplete scope of regulation. This confirms that legal certainty is not enough only to measure the existence of rules, but also from their quality and resilience to change.

In this context, legal reconstruction is an inevitable necessity. Strengthening the foundation of legislation is a crucial step so that crypto tax regulation does not rely solely on volatile technical regulations. Basic norms related to asset classification, tax imposition principles, and limits on tax objects should ideally be placed in the law, thus providing a guarantee of long-term stability. Regulation at the ministerial level then serves as an instrument that regulates technical aspects and can adjust developments without disrupting the main framework.

At the same time, the approach to classification of digital assets needs to be refined so that it

no longer generalizes all forms of assets in one category. Cryptos that function as trading instruments cannot be treated identically with NFTs that represent unique holdings or digital works. This differentiation is important to ensure that tax treatment reflects the economic character of each asset, thereby increasing legal precision and reducing ambiguity of interpretation.

Reconstruction also needs to touch on aspects of tax collection supervision and reach. The system that currently relies on deductions through registered exchanges has not been able to reach the entire ecosystem, especially international cross-platform transactions and decentralized exchange mechanisms. In global practice, the development of blockchain technology actually allows for higher transaction transparency if used optimally. Therefore, strengthening reporting systems and data integration is an important part of building legal certainty that is not only normative, but also implementive.

In the end, legal certainty in crypto taxes cannot be separated from the ability of the law to adapt without losing its stability. Regulations that are too rigid will lag behind technological developments, but regulations that are too flexible sacrifice certainty. The balance between the two is key in building a tax law system that is able to answer the challenges of the digital economy. Thus, the reconstruction of crypto tax law in Indonesia must be directed at the formation of a stable, differentiated, and adaptive normative framework, so as to be able to provide real certainty for taxpayers while supporting the sustainable development of the digital economy.

2. Fairness and Efficiency of Crypto Tax as a State Financial Instrument

Taxes not only function as a means of state revenue (budgetair function), but also as an instrument of economic redistribution and regulation (regulatory function) (Faruq et al., 2024). Adam Smith formulated four maxims of tax collection: *equality*, *certainty*, *convenience*, and *Economy*. Of the four maxims, *equality* which demands that taxes be imposed proportionately according to the economic ability of the taxpayer is the principle that is most often the benchmark of fairness of a tax system (K.C., 2020).

The Article 22 Final Income Tax mechanism implemented in Article 5 paragraph (1) of PMK 68/2022 uses a flat rate: 0.1% or 0.2% of the transaction value regardless of the investor's income. This means that a student who sells crypto worth IDR 500,000 is taxed at exactly the same percentage as a professional trader who spins IDR 5 billion every day. Technically, this scheme is indeed easy to implement and there is minimal potential for disputes because the rate is definite. But if we ask anyone outside the technical tax environment: "Is it fair for the poor and the rich to pay taxes at the same percentage?" the answer is almost certainly no. That is exactly what is happening in our current crypto tax. The progressive system that we apply to personal income tax reflects the belief that the tax burden must be adjusted to the ability to pay. But that belief suddenly disappeared when we talk about crypto.

This inconsistency is noticeable when compared to the tax treatment of other investment instruments. Income from deposits is subject to a 20% Final Income Tax, income from dividends is 10%, and ordinary income is subject to a progressive rate of 5–35%. Meanwhile, profits from crypto trading, which in many cases are much larger in value, are only subject to 0.1%. This far difference in rates creates an unhealthy incentive: investors are encouraged to switch to crypto assets not because

of rational economic considerations, but because of tax advantages alone.

The authors understand that there is another argument behind this low rate, the government wants to encourage voluntary compliance by not burdening crypto market participants who are still in the growth stage. That argument is not entirely wrong. But there is a limit at which the "incentive for compliance" turns into a "legalized injustice". The author argues that that limit is already crossed when the crypto tax rate is lower than the interest rate on deposits of investment instruments which is actually used by the much more conservative and generally less fortunate circles.

In terms of efficiency, the data shows a contradictory picture. Crypto tax revenue will jump significantly in 2024 (IDR 620.4 billion) compared to 2023 (IDR 220.83 billion) (Directorate General of Taxes, 2025), but the surge reflects more of an increase in crypto prices globally (*bull market* 2024) than an increase in organic tax compliance (MUC Consulting Group, 2024). The government-selected exchange withholding model (Enforce A Consulting, 2025) is indeed efficient in capturing transactions within the registered exchanger ecosystem, but it is completely blind to transactions outside that system.

Imagine a net where the holes can only catch large fish swimming in a certain lane, while thousands of small fish and some very large fish are free to pass untouched. That's roughly what our current crypto tax system looks like. Registered exchanges do collect and deposit taxes compliantly. But international cross-platform NFT transactions, peer-to-peer exchanges, and trading through *decentralized exchanges* are completely uncovered. As long as these loopholes aren't closed with proper mechanisms, then the claims of "collection efficiency" only apply to a small fraction of the entire true crypto ecosystem.

PMK 50/2025 brings some appreciable improvements, the elimination of VAT on crypto purchases and the change of crypto miners' income tax rates to progressive general rates effective 2026 is a fairer step in principle. However, these changes are partial and have not touched on the most basic structural injustices where the flat rate of Final Income Tax for general crypto traders which makes small and large investors treated identical.

The author's conclusion for this second question is that the applicable crypto tax collection mechanism has shown good intentions and some have run correctly, but it cannot be said to meet the true standards of fairness and efficiency. Vertical fairness that requires a proportionate tax on economic capabilities is still ignored by the flat rate scheme. Meanwhile, the efficiency of collection is still very limited in scope. The reform needed is not the next PMK patchwork, but a comprehensive rearrangement of the crypto tax legal architecture.

Conclusion

The construction of crypto asset tax law in Indonesia shows that although there have been administrative regulations regarding the object, tariff, and collection mechanism, the resulting legal certainty is still limited and has not reached a substantive dimension due to weak normative stability and incomplete regulatory coverage, especially related to NFTs that have not been explicitly accommodated. At the same time, the applicable tax mechanism does not fully reflect the principles of fairness and efficiency, because the implementation of the flat rate of Final Income Tax ignores the difference in taxpayers' economic capabilities and the collection system that relies on registered

exchanges still leaves a large gap in reaching transactions outside the system. This condition emphasizes the need for a more comprehensive legal reconstruction through strengthening the basis of legislation, differentiating treatment of digital asset types, and developing an adaptive supervision system to be able to realize legal certainty, fiscal justice, and collection efficiency in a sustainable manner.

The authors propose three recommendations. *First*, the government needs to issue a law or special chapter in the HPP Law that comprehensively regulates digital asset tax, including defining NFTs with their distinctive characteristics. *Second*, the income tax rate on crypto income needs to be reformed from a final flat scheme to a more progressive structure or at least have a certain income threshold before the final rate takes effect. *Third*, international cooperation and strengthening of data infrastructure, for example through automated information exchange (AEoI) for digital assets, is needed so that the tax collection reach can go beyond the limits of registered exchangers. In the end, the biggest challenge is not the technicality of the collection. The biggest challenge is the willingness to admit that our tax laws are not ready to face a fast-moving world as the digital asset ecosystem. And that recognition, if followed by appropriate action, is the starting point for real reform.

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