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Taxpayer Protection and Legal Certainty in the Taxation of Family Gifts of Land and Buildings: Rethinking Indonesia's Final Income Tax Framework

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Abstract

The taxation of family gifts involving land and buildings raises questions concerning the balance between the state's fiscal authority and taxpayers' rights to legal certainty. Although Indonesian tax regulations provide exemptions for qualifying family gifts, administrative requirements may create uncertainty regarding their practical application. This study aims to evaluate the adequacy of Indonesia's Final Income Tax framework in protecting taxpayers and to formulate a more coherent regulatory approach. It employs doctrinal legal research using statutory, conceptual, case, and comparative approaches. Primary and secondary legal materials are collected through library research and analyzed qualitatively through legal interpretation, normative evaluation, and legal reconstruction. The findings indicate that effective taxpayer protection depends not merely on the formal availability of an exemption but also on the consistency of substantive eligibility criteria, the accessibility of administrative procedures, and the availability of effective remedies. The study identifies a potential gap between statutory entitlement and practical access to exemption, particularly where documentary requirements and administrative decisions are insufficiently predictable. It concludes that legal certainty should function as an organizing principle of the exemption framework while preserving the state's legitimate interest in preventing tax avoidance. The study recommends a three-layer protection model comprising substantive, procedural, and remedial safeguards, supported by standardized requirements, transparent decisions, proportionate verification, and integrated tax and land-administration procedures. These measures could strengthen taxpayer protection while maintaining the integrity of Indonesia's tax system.

I. INTRODUCTION

The taxation of land and building transfers raises a fundamental question concerning the balance between the state's fiscal authority and the taxpayer's right to legal certainty. The issue becomes more complex when the transfer occurs through a family gift rather than a commercial transaction. A family gift generally represents an intra-family transfer of wealth motivated by familial, social, or succession considerations rather than the pursuit of economic gain. Treating such a transfer within a tax regime designed to regulate income generated from the transfer of property therefore creates a potential tension between the formal classification of a transaction and its substantive economic character. This tension is particularly significant in Indonesia because the transfer of land and building rights may fall within the Final Income Tax regime even when the transfer takes the form of a gift (Government of Indonesia, 2016).

The legal framework demonstrates the complexity of this issue. Government Regulation No. 34 of 2016 provides that income derived from the transfer of rights over land and/or buildings is subject to Final Income Tax and expressly includes transfers through sale, exchange, relinquishment, auction, gift, inheritance, or other agreed mechanisms. The regulation consequently places a family gift within the legal architecture of taxable property transfers, although its economic character differs substantially from an ordinary sale transaction (Government of Indonesia, 2016). The Directorate General of Taxes confirms that a

gift of land or buildings is, in principle, subject to Final Income Tax, while certain family gifts may qualify for exemption. The exemption applies, among other circumstances, to gifts between relatives in a direct line of one degree, provided that the transfer is not connected with business, employment, ownership, or control relationships (Directorate General of Taxes, 2024).

The existence of an exemption, however, does not automatically resolve the problem of taxpayer protection. The taxpayer must satisfy substantive requirements and comply with an administrative mechanism for obtaining a tax exemption certificate (*Surat Keterangan Bebas* or SKB). The Directorate General of Taxes itself acknowledges that there has been a misconception among taxpayers that transfers of land and buildings between family members are automatically tax-free, whereas the legal framework requires specific conditions and administrative procedures to obtain the exemption (Directorate General of Taxes, 2022). This situation creates a potential gap between the substantive entitlement to tax relief and the taxpayer's practical ability to exercise that entitlement.

The regulatory landscape has also continued to evolve. Minister of Finance Regulation No. 114 of 2025, effective from 31 December 2025, replaced several previous regulations concerning gifts and excluded income. The regulation maintains an exemption for certain gifts to relatives in a direct line of one degree, subject to prescribed conditions, while separately reaffirming that the transfer of land and buildings remains governed by the specific taxation regime applicable to such transfers (Ministry of Finance of the Republic of Indonesia, 2025). Regulatory change of this nature increases the importance of clarity, consistency, and predictability in the application of tax rules to family property transfers.

Legal certainty is not merely a formal requirement of tax legislation but a substantive component of taxpayer protection. Taxpayers should be able to anticipate the tax consequences of a transaction before undertaking it, while tax authorities should exercise their powers according to clear and predictable legal standards. The OECD identifies certainty and simplicity as essential principles of taxation because taxpayers should be able to understand and anticipate the tax consequences of transactions in advance (OECD, 2025). Taxpayer rights likewise include certainty, access to appeal, and the right to pay no more than the correct amount of tax (OECD, 2022).

The central problem therefore lies not simply in whether family gifts of land and buildings are taxable, but in whether the existing Final Income Tax framework provides a sufficiently clear, predictable, and procedurally accessible mechanism for protecting taxpayers who are legally entitled to an exemption. The coexistence of a general rule imposing Final Income Tax, a conditional exemption for family gifts, and administrative requirements for obtaining an SKB creates a regulatory space in which legal uncertainty may arise. This study consequently examines whether Indonesia's Final Income Tax framework adequately reconciles fiscal authority with taxpayer protection and legal certainty in family transfers of land and buildings. The analysis ultimately seeks to rethink the regulatory framework so that taxation of family gifts reflects not only the state's revenue interests but also fairness, predictability, and effective protection of taxpayer rights.

II. RESEARCH METHODS

This study employs doctrinal legal research to examine the legal certainty and taxpayer protection arising from the taxation of family gifts involving land and buildings under Indonesia’s Final Income Tax framework. The doctrinal method is appropriate because the research focuses primarily on the identification, interpretation, evaluation, and reconstruction of legal rules, principles, and administrative mechanisms governing the transfer of land and building rights. Doctrinal legal research enables researchers to synthesize legislation, judicial decisions, legal principles, and scholarly doctrines in order to determine the coherence of the applicable legal framework and formulate legally justified propositions for its development (Bhat, 2020). The research does not seek to measure taxpayers’ attitudes or statistically examine tax compliance; rather, it investigates whether the existing normative framework provides sufficient legal certainty and effective protection for taxpayers involved in family transfers of land and buildings.

The study applies four complementary approaches: the statutory approach, conceptual approach, case approach, and comparative approach. The statutory approach is used to examine the hierarchy, consistency, scope, and interaction of Indonesian legal instruments

governing Final Income Tax on transfers of land and buildings, particularly provisions concerning gifts, tax exemptions, and the issuance of exemption certificates. The conceptual approach is employed to construct analytical standards derived from the concepts of legal certainty, taxpayer protection, tax justice, proportionality, and administrative fairness. The case approach is used to examine relevant judicial decisions and administrative disputes in order to determine how legal provisions concerning property transfers and taxpayer rights are interpreted and applied in concrete circumstances. The comparative approach is incorporated selectively to identify alternative regulatory models concerning the taxation of family transfers of property and taxpayer protection in other jurisdictions. Combining these approaches allows the research to move beyond a merely descriptive reading of legislation toward a critical assessment of the coherence and adequacy of the existing legal framework (Taekema, 2021; Bhat, 2020).

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, laws and regulations governing income taxation, provisions concerning the transfer of rights over land and buildings, regulations governing tax exemptions, relevant Minister of Finance regulations, administrative regulations issued by the Directorate General of Taxes, and judicial decisions concerning the taxation of property transfers and taxpayer rights. Secondary legal materials comprise peer-reviewed journal articles, academic books, scholarly commentaries, and research reports published predominantly between 2020 and 2026, with particular emphasis on recent scholarship concerning taxpayer rights, legal certainty, tax justice, property taxation, and tax administration. Tertiary materials, including legal dictionaries, official legal databases, and authoritative reference materials, are used to clarify terminology and support the interpretation of primary and secondary materials. The selection of legal materials follows a relevance, authority, and recency criterion so that the analysis remains closely connected to the current Indonesian tax regime.

The materials are collected through library research and systematic legal document retrieval. Primary legal materials are obtained from authoritative government and judicial databases, while secondary materials are identified through academic databases and peer-reviewed publications. The collection process begins with the identification of legal provisions directly regulating the taxation of transfers of land and buildings, followed by the identification of provisions governing exemptions for family gifts and the procedural requirements applicable to taxpayers. Relevant judicial decisions and administrative interpretations are subsequently examined to identify potential inconsistencies between statutory rules, administrative practice, and taxpayer rights. Scholarly literature is reviewed to establish the theoretical and normative standards against which the Indonesian framework can be evaluated. This process reflects the doctrinal research requirement that legal propositions be derived through systematic engagement with authoritative legal sources rather than through selective citation of individual provisions (Disemadi, 2022).

The analysis employs qualitative doctrinal analysis combined with systematic legal interpretation and normative evaluation. The first stage maps the applicable legal rules and establishes the relationship between general taxation provisions and the special regime governing transfers of land and buildings. The second stage interprets the relevant provisions using grammatical, systematic, historical, and teleological reasoning to determine the legal status of family gifts and the conditions under which tax exemption may be obtained. The third stage identifies normative inconsistencies, regulatory gaps, ambiguities, or disproportionate administrative burdens that may undermine legal certainty and taxpayer protection. The fourth stage evaluates the existing framework against the principles of legal certainty, taxpayer rights, tax justice, proportionality, and administrative fairness. The final stage develops a normative reconstruction of the Final Income Tax framework by formulating principles and regulatory directions capable of reconciling the State's fiscal interests with the legitimate rights and expectations of taxpayers.

The analytical process therefore follows a rule–interpretation–evaluation–reconstruction sequence. Such a sequence is particularly appropriate where legal research seeks not merely to establish *what the law is* but also to assess whether the existing legal framework is coherent and capable of addressing identified normative problems. Contemporary legal methodology recognizes that doctrinal research can contribute to legal development by identifying

inconsistencies and gaps within legal sources and developing more coherent legal propositions from the internal logic of the legal system (Bhat, 2020; Taekema, 2021). The validity of the analysis is maintained through source triangulation, consistency between legal propositions and authoritative sources, explicit differentiation between descriptive statements of existing law and normative arguments for legal reform, and cross-checking between legislation, judicial decisions, administrative materials, and contemporary legal scholarship.

III. RESULTS AND DISCUSSION

A. The Legal Architecture of Final Income Tax on Family Gifts of Land and Buildings in Indonesia

The taxation of transfers of land and buildings in Indonesia is constructed upon a legal distinction between the transfer of rights as a taxable event and the economic character of the transaction giving rise to that transfer. This distinction becomes particularly important in the context of family gifts because the transfer of property within a family does not necessarily generate economic gain for the transferor in the same manner as a commercial sale. The Indonesian tax system nevertheless places transfers of rights over land and/or buildings within a specific Final Income Tax regime. Government Regulation No. 34 of 2016 establishes the legal framework for Income Tax on income derived from the transfer of rights over land and/or buildings and includes several forms of transfer within its regulatory scope. The regulation therefore demonstrates that the legal characterization of a transaction cannot be determined exclusively by whether the transfer is commercial or gratuitous; the statutory classification of the transfer itself remains decisive (Government of Indonesia, 2016).

The legal issue becomes more complex when the concept of income under the Income Tax Law is placed alongside the special taxation regime for land and building transfers. Article 4 paragraph (1) of Law No. 7 of 1983 concerning Income Tax, as subsequently amended, defines taxable income broadly as any increase in economic capability received or obtained by a taxpayer, which may be used for consumption or to increase the taxpayer's wealth. The transfer of land and buildings through a gift, however, does not necessarily correspond to the ordinary economic conception of income received by the transferor. The absence of a purchase price and the familial nature of the transaction distinguish a gift from an arm's-length disposal. The special regime under Government Regulation No. 34 of 2016 consequently operates as a *lex specialis* governing particular property transfers rather than merely applying the general concept of income in an undifferentiated manner (Government of Indonesia, 2016).

Such a regulatory structure is legally justified only if the special tax treatment remains consistent with the principles of equality, certainty, and fairness in taxation. The principle of legality (*nullum tributum sine lege*) requires taxation to have a sufficiently clear statutory foundation. Article 23A of the 1945 Constitution establishes that taxes and other compulsory levies for state purposes must be regulated by law. The constitutional foundation indicates that the state's authority to impose taxation is not unlimited; the exercise of fiscal power must remain connected to legal authorization and constitutional principles. Taxation therefore contains a dual relationship: the state possesses the authority to collect revenue, while taxpayers possess legally protected expectations concerning the basis, scope, and consequences of that authority (Government of Indonesia, 1945).

The taxation of family gifts must also be interpreted in light of the exemption mechanism provided by the legal framework. Indonesian tax regulations recognize that certain gifts may be excluded from the recipient's taxable income when they are transferred to specified recipients and satisfy prescribed conditions. Family relationships within the direct line of one degree constitute an important category in this regulatory design. The rationale is evident. A transfer from a parent to a child, or from a child to a parent, may represent an intra-family redistribution of wealth rather than the realization of commercial income. Treating every such transfer as an ordinary taxable economic gain would risk disregarding the substantive character of the transaction. The exemption mechanism therefore performs an important corrective function within the broader tax system by preventing the formal classification of a transfer from producing an excessive tax burden in circumstances that lack a conventional income-generating event.

The existence of an exemption, however, does not mean that taxpayer protection is automatically secured. The distinction between substantive entitlement and procedural

entitlement is critical. A taxpayer may satisfy the substantive conditions for exemption but still be required to complete administrative procedures before the exemption can be effectively recognized. In the context of land and building transfers, the issuance of a tax exemption certificate (*Surat Keterangan Bebas* or SKB) becomes particularly significant. The Directorate General of Taxes has expressly acknowledged that taxpayers transferring land or buildings as gifts to parents or children may need an SKB to avoid Final Income Tax and that applications may be rejected where the applicable requirements are not satisfied (Directorate General of Taxes, 2022).

The administrative requirement is not inherently inconsistent with taxpayer protection. Tax administration necessarily requires mechanisms for verifying whether an exemption is genuinely justified. The principle of administrative accountability permits the tax authority to require documentary evidence concerning family relationships, ownership, the nature of the transfer, and the absence of prohibited relationships such as business, employment, ownership, or control. The problem arises when administrative requirements become insufficiently predictable, disproportionately burdensome, or disconnected from the substantive purpose of the exemption. Legal certainty requires that taxpayers be able to determine in advance whether their circumstances satisfy the exemption and what documentary requirements must be fulfilled. Tax rules that formally recognize an exemption but make its practical exercise uncertain may produce a gap between legal entitlement and effective taxpayer protection.

This distinction is consistent with the broader principle of tax certainty. The OECD identifies certainty and simplicity as important dimensions of sound taxation because taxpayers should be able to understand the tax consequences of a transaction before undertaking it (OECD, 2020). Certainty therefore encompasses more than the existence of written legislation. It requires sufficient clarity regarding the taxable event, applicable exemption, procedural requirements, administrative discretion, and available remedies. The same principle is reflected in taxpayer-rights frameworks that recognize certainty, access to appeal, and the right to pay no more than the correct amount of tax as important elements of fair tax administration (OECD, 2020).

The Indonesian framework consequently reveals a structural tension. On one side, the state has a legitimate fiscal interest in ensuring that transfers of valuable land and buildings are not disguised as gifts merely to avoid taxation. On the other side, genuine family gifts should not be transformed into taxable transactions merely because taxpayers cannot navigate complex administrative requirements. The legitimacy of the exemption system depends upon its ability to distinguish these two situations accurately. The appropriate legal question is therefore not whether the state may regulate family gifts, but whether the regulatory architecture provides a sufficiently clear and proportionate mechanism for differentiating legitimate family wealth transfers from transactions designed to circumvent tax obligations.

B. Legal Uncertainty and the Limits of Taxpayer Protection in the Family Gift Exemption Mechanism

The principal legal problem identified in the Indonesian framework lies in the relationship between substantive tax exemption and administrative implementation. Legal certainty in taxation requires a rule to be sufficiently clear not only in defining the taxpayer's obligation but also in determining the conditions under which the taxpayer may exercise a statutory exemption. The principle of legal certainty (*rechtszekerheid*) is particularly important in tax law because taxation directly affects property rights. A taxpayer must be able to foresee the fiscal consequences of a transaction from the applicable legal framework rather than from an unpredictable administrative interpretation. The requirement becomes stronger when the transaction concerns family property, where the parties may have legitimate non-commercial reasons for transferring ownership.

The problem can be illustrated through the distinction between a family relationship and a tax-relevant relationship. The existence of a parent-child relationship may appear sufficient from an ordinary social perspective to characterize a transfer as a family gift. Tax law, however, may impose additional conditions concerning business, employment, ownership, or control. These requirements serve a legitimate anti-avoidance purpose because a transaction labelled as a gift may conceal an economic transfer associated with a business relationship. The difficulty arises when the taxpayer is unable to determine with sufficient certainty how these conditions will be interpreted by the tax authority. A legal standard designed to prevent abuse must

not itself become a source of arbitrary or inconsistent application.

The principle of proportionality provides an appropriate normative framework for evaluating this tension. Administrative requirements are legitimate when they are rationally connected to the objective of preventing tax avoidance, necessary to verify the relevant facts, and proportionate to the burden imposed on taxpayers. Excessive documentation or unclear procedural requirements may undermine proportionality because the administrative cost borne by the taxpayer becomes disproportionate to the state's interest in verification. Proportionality in tax administration therefore requires a balance between effective enforcement and the taxpayer's legitimate interest in obtaining a legally available exemption.

The principle of equality before the law also requires careful consideration. Article 27 paragraph (1) of the 1945 Constitution establishes equality before the law, while the constitutional taxation principle under Article 23A provides the legal foundation for compulsory levies. Equality in taxation does not necessarily require identical treatment of all transactions. The principle of horizontal equity supports comparable treatment of taxpayers in comparable circumstances, whereas different economic circumstances may justify differentiated treatment. A genuine family gift and a commercial sale may therefore legitimately receive different tax treatment because their economic and legal characteristics are different. The existence of an exemption for qualifying family gifts is consistent with substantive equality precisely because it recognizes the difference between a gratuitous intra-family transfer and an income-generating commercial transaction (Government of Indonesia, 1945).

The legal uncertainty becomes more pronounced where the taxpayer's ability to complete a land registration or transfer process depends upon prior satisfaction of tax requirements. Land is not merely another economic asset. Under Article 33 paragraph (3) of the Constitution, land and natural resources are placed within a constitutional framework in which their utilization is connected to the public interest. Law No. 5 of 1960 concerning Basic Agrarian Regulations subsequently establishes the legal architecture of land rights and their transfer. The interaction between land law and tax law means that uncertainty in tax administration may produce consequences extending beyond the tax liability itself. Delays or rejection of an exemption certificate may affect the completion of a property transfer, creating transactional and administrative consequences for family members who may have legitimate reasons to reorganize property ownership.

The problem should also be assessed through the principle of good governance. Tax administration is an exercise of public authority and must therefore satisfy requirements of transparency, accountability, consistency, and procedural fairness. The State Administrative Law framework, particularly Law No. 30 of 2014 concerning Government Administration, reinforces the importance of principles of good governance in governmental decision-making. Administrative decisions affecting taxpayer rights should have a clear legal basis, be based on relevant facts, and remain within the authority granted by legislation. A refusal to recognize a tax exemption cannot legitimately rest solely on formal considerations when the substantive statutory requirements have actually been satisfied.

The taxpayer's right to challenge an adverse tax decision constitutes another essential component of protection. Taxpayer protection cannot be reduced to the right to obtain an exemption. It also includes the right to receive reasons for administrative decisions, the opportunity to correct errors, and access to objection, appeal, and judicial review mechanisms where legally available. The OECD's analysis of tax administration recognizes access to procedures for challenging assessments and administrative decisions as an important safeguard against excessive exercise of tax authority (OECD, 2020). The availability of remedies is therefore part of legal certainty because certainty is incomplete when taxpayers cannot effectively contest an incorrect application of tax law.

The distinction between tax avoidance and legitimate tax relief is particularly relevant. A state may legitimately prevent artificial transactions designed to obtain an exemption without satisfying its substantive conditions. Such anti-avoidance measures, however, must be sufficiently precise to avoid capturing legitimate transactions. The principle *in dubio contra fiscum*, traditionally associated with restrictive interpretation of ambiguous tax burdens, provides a useful doctrinal consideration, although its application must be reconciled with contemporary principles of statutory interpretation. The fundamental concern is that

ambiguity in a tax rule should not automatically be transformed into an additional burden for the taxpayer where the legislation itself has failed to provide sufficiently clear guidance.

The legal framework therefore demonstrates that taxpayer protection has at least three dimensions. The first is substantive protection, namely the right not to bear a tax burden when the statutory conditions for exemption are satisfied. The second is procedural protection, namely the right to a clear, accessible, and proportionate mechanism for obtaining the exemption. The third is remedial protection, namely the right to challenge an administrative determination that improperly denies the taxpayer's legal entitlement. The Indonesian framework provides elements of all three dimensions, but their interaction remains insufficiently integrated. The existence of an exemption does not necessarily guarantee substantive protection if the administrative mechanism for accessing it is uncertain; similarly, the existence of appeal mechanisms does not eliminate the problem if taxpayers are exposed to avoidable uncertainty at the initial administrative stage.

This finding demonstrates why taxpayer protection should be understood as a component of the rule of law rather than merely an administrative convenience. Tax administration is legitimate when fiscal authority is exercised within predictable legal boundaries. The principle of *lex certa* requires sufficient determinacy in the formulation and application of legal obligations. The principle of *due process* requires procedural fairness where governmental decisions affect individual rights and interests. The principle of proportionality requires the administrative burden imposed on taxpayers to remain connected to legitimate enforcement objectives. These principles collectively provide a stronger normative basis for evaluating Indonesia's family-gift taxation regime than a narrow analysis of whether the tax authority possesses statutory authority.

The regulatory challenge is therefore not necessarily the existence of Final Income Tax on transfers of land and buildings. The more significant concern is the potential mismatch between the formal availability of exemption and its practical accessibility. A taxpayer who genuinely satisfies the legal requirements should not be placed in a position where uncertainty about administrative interpretation effectively converts an exemption into a discretionary privilege. Tax exemption is a legal consequence established by the regulatory framework, not merely an act of administrative benevolence. The role of the tax authority should consequently be to verify whether statutory conditions have been fulfilled, not to create additional substantive barriers that exceed the legal basis of the exemption.

C. Reconstructing the Final Income Tax Framework through Legal Certainty and Taxpayer Rights

The preceding analysis indicates that reform should not be directed toward eliminating taxation of land and building transfers as such. Such an approach would ignore the state's legitimate interest in protecting the tax base and preventing disguised commercial transactions. The more defensible approach is to reconstruct the exemption mechanism so that fiscal enforcement and taxpayer protection operate within a predictable legal framework. The reconstruction should be founded upon the principles of legality, legal certainty, equality, proportionality, good governance, and effective remedies. These principles provide a normative bridge between the state's power to tax and the taxpayer's right to predictable treatment.

The first reconstruction concerns the formulation of the substantive eligibility criteria for family gifts. The law should distinguish clearly between the existence of a qualifying family relationship and circumstances that justify denial of the exemption. A direct-line family relationship should constitute a strong presumptive basis for exemption where the transaction is genuinely gratuitous. Additional restrictions concerning business, employment, ownership, or control should be defined with sufficient precision to prevent inconsistent administrative interpretation. A taxpayer should be able to determine from the regulation itself whether the existence of a particular relationship or circumstance disqualifies the transaction. Vague or excessively open-ended standards increase administrative discretion and consequently weaken legal certainty.

The second reconstruction concerns the relationship between substantive exemption and the SKB procedure. The SKB should function primarily as an administrative instrument for verifying an existing statutory entitlement rather than as an independent source of the taxpayer's entitlement. This distinction is doctrinally significant. If the taxpayer satisfies the substantive requirements established by

legislation, the administrative certificate should confirm that status. The absence of a certificate may justify postponing completion of a particular administrative process where the law expressly requires it, but it should not conceptually transform an otherwise exempt transaction into a taxable transaction without a clear statutory basis. The distinction protects the hierarchy between substantive law and administrative procedure.

The third reconstruction requires a clear evidentiary framework. Tax authorities legitimately require evidence that a transaction is a genuine family gift. Evidence may include civil-registration documents establishing the family relationship, the deed of gift, land ownership documents, declarations concerning the absence of commercial consideration, and information necessary to identify prohibited business or control relationships. The regulation should identify which evidence is mandatory, which evidence is supplementary, and under what circumstances additional documents may be requested. Administrative certainty increases when evidentiary requirements are standardized rather than determined unpredictably on a case-by-case basis.

The fourth reconstruction concerns administrative time limits and reasons for decision. A taxpayer applying for an exemption should receive a decision within a defined period. Where an application is rejected, the tax authority should provide a specific legal and factual explanation identifying the requirement that has not been satisfied. Such a mechanism reflects the principle of accountability and prevents administrative decisions from becoming opaque. The OECD emphasizes that effective dispute prevention and resolution contribute to greater tax certainty and reduce burdens for both taxpayers and tax administrations (OECD, 2020). A transparent decision-making mechanism can therefore be understood not merely as a taxpayer service but as an institutional requirement for a predictable tax system.

The fifth reconstruction concerns consistency between tax administration and land administration. Family transfers of land and buildings frequently involve multiple institutions, including the tax authority, land office, notaries, and land deed officials. Fragmentation between these institutions may create situations in which a taxpayer satisfies the requirements of one institution but encounters additional uncertainty in another. An integrated administrative framework should therefore establish consistent legal terminology, documentary requirements, and verification procedures. Digital information exchange may reduce repetitive documentation while preserving the authority's ability to verify the authenticity of the transaction. Administrative integration would strengthen both compliance and taxpayer protection because taxpayers would no longer bear unnecessary procedural burdens resulting from institutional fragmentation.

The sixth reconstruction involves the application of the principle of proportionality in tax enforcement. Verification mechanisms should be calibrated according to the risk of abuse. A straightforward transfer between a parent and a child involving a genuine gratuitous transaction should not necessarily be subjected to the same level of scrutiny as a transaction involving related companies, business interests, or complex ownership structures. Risk-based administration permits the tax authority to concentrate enforcement resources on transactions presenting greater indicators of avoidance while facilitating legitimate low-risk transactions. Such differentiation does not violate equality; it may actually strengthen substantive equality because taxpayers presenting materially different risks are treated according to relevant differences.

The seventh reconstruction concerns the protection of the taxpayer's legitimate expectations. Where the tax authority has consistently interpreted a particular provision in a certain manner and taxpayers have relied upon that interpretation in good faith, abrupt administrative changes should be accompanied by clear transitional arrangements. Legal certainty requires stability and predictability, particularly in transactions involving property whose transfer cannot easily be reversed. OECD tax policy literature similarly associates tax certainty with predictability concerning the consequences of transactions (OECD, 2020). The principle does not prohibit regulatory change, but it requires change to occur through transparent and legally intelligible mechanisms.

The eighth reconstruction concerns the distinction between taxpayer compliance and taxpayer protection. An effective tax system should not regard protection as an obstacle to compliance. Clear exemption requirements can actually improve compliance because taxpayers are more likely to disclose transactions when they can determine in advance the legal consequences of doing so. Uncertainty, by contrast, may encourage informal arrangements, delayed

registration, or reliance on intermediaries without adequate legal understanding. Taxpayer protection and enforcement therefore should not be conceptualized as competing objectives. Properly designed legal certainty can serve the state's fiscal interest by encouraging voluntary compliance and reducing unnecessary disputes.

The normative reconstruction proposed in this study can consequently be formulated through a three-layer protection model. The first layer is substantive: qualifying family gifts should receive the statutory tax treatment established by law without additional substantive burdens created through administrative practice. The second layer is procedural: the exemption mechanism should be transparent, standardized, time-bound, and proportionate. The third layer is remedial: taxpayers must have meaningful access to reasons, objections, appeals, and judicial review where an exemption is denied. The model transforms taxpayer protection from a general principle into an operational legal framework.

The approach also reinforces the constitutional balance between fiscal sovereignty and property protection. Article 23A of the 1945 Constitution confirms the state's power to impose taxes through law, while constitutional principles concerning equality and the rule of law limit the arbitrary exercise of that power. Taxation of property transfers is therefore constitutionally legitimate when grounded in law and administered consistently with legal certainty and equality. The state's fiscal interest cannot justify an administrative practice that exceeds statutory authority. Conversely, taxpayer protection cannot be interpreted as an absolute immunity from taxation where the legislature has clearly established a taxable event. The proper constitutional position lies in maintaining a proportionate balance between these interests.

The significance of this reconstruction becomes particularly apparent in light of the continuing development of Indonesia's tax administration. The current regulatory framework concerning gifts has evolved, including the issuance of Minister of Finance Regulation No. 114 of 2025, which replaced earlier regulations concerning income-tax treatment of gifts and clarified several categories of exempt recipients. The regulation confirms that qualifying gifts to relatives in a direct line of one degree may receive exemption treatment, subject to prescribed conditions, while transfers of land and buildings remain subject to the specific regime governing those transfers. The development illustrates that legal certainty in this field cannot depend solely on the existence of an exemption; the interaction between the general gift regime and the specific land-and-building transfer regime must remain coherent.

The final implication is that the protection of taxpayers in family gifts should be understood through the principle that tax administration must implement, rather than obscure, substantive tax law. The existence of fiscal authority does not by itself establish the legitimacy of every administrative requirement. Every procedural requirement should have a clear legal basis, pursue a legitimate tax-administration objective, and remain proportionate to that objective. The taxpayer should be able to anticipate the tax consequences of a family gift, understand the conditions for exemption, identify the documents required, obtain a decision within a reasonable period, and challenge an adverse determination through an effective remedy.

Indonesia's Final Income Tax framework therefore does not require a rejection of taxation on land and building transfers; it requires a more coherent distinction between taxable transfers and legitimately exempt family gifts. Legal certainty should operate as the organizing principle of that distinction. Taxpayer protection should operate as its procedural guarantee, while proportionality and equality should constrain administrative implementation. Such reconstruction would preserve the state's legitimate fiscal interest while ensuring that a family gift is not subjected to an avoidable tax burden merely because the taxpayer encounters uncertainty in accessing an exemption. The resulting framework would bring Indonesian tax administration closer to the broader rule-of-law conception of taxation in which fiscal power is exercised predictably, transparently, and within legally defined boundaries.

IV. CONCLUSION AND RECOMMENDATIONS

A. Conclusion

This study concludes that the principal challenge in the taxation of family gifts of land and buildings in Indonesia does not lie solely in the existence of Final Income Tax, but in the legal architecture through which taxpayers obtain recognition of an exemption. The analysis demonstrates that taxpayer protection is determined by the coherence between substantive tax rules, administrative procedures, and available remedies. A statutory exemption

can provide limited protection when taxpayers cannot predict with sufficient certainty how its requirements will be interpreted or what procedural conditions must be fulfilled. Legal certainty in this context must therefore be understood as an institutional quality of the entire tax process rather than merely as the existence of written tax provisions.

The study further establishes that family gifts require a differentiated regulatory treatment because their legal and economic characteristics are fundamentally distinct from ordinary commercial transfers. The relevant distinction is not whether the state has authority to tax property transfers, but whether the exercise of that authority appropriately recognizes the non-commercial character of qualifying family gifts while preserving effective safeguards against disguised transactions. A balanced tax regime must consequently distinguish legitimate intra-family wealth transfers from arrangements structured to circumvent tax obligations. Such differentiation provides a stronger foundation for substantive equality than imposing uniform treatment on transactions with materially different characteristics.

The principal contribution of this study is the formulation of a three-layer taxpayer protection model consisting of substantive, procedural, and remedial protection. Substantive protection requires the tax consequences of a qualifying family gift to follow the statutory conditions without additional substantive burdens being created through administrative practice. Procedural protection requires an exemption mechanism that is transparent, standardized, proportionate, and time-bound. Remedial protection requires taxpayers to have meaningful access to reasons for adverse decisions and effective mechanisms for objection, appeal, and judicial review. The three dimensions should operate as an integrated system because weakness in one layer can undermine protection provided by the others.

The study therefore proposes that legal certainty should become the organizing principle of the exemption framework rather than an incidental consequence of tax administration. Such an orientation would reconcile the state's legitimate interest in protecting tax revenue with the taxpayer's legitimate expectation of predictable treatment. The resulting framework would not diminish the state's fiscal authority; rather, it would strengthen the legitimacy and enforceability of that authority by ensuring that taxation is exercised within clear, proportionate, and accountable legal boundaries.

B. Recommendations

The Indonesian tax authority should develop a single and explicit regulatory framework for family gifts of land and buildings that clearly distinguishes substantive eligibility for exemption from the administrative procedure required to establish that eligibility. The regulation should expressly identify the qualifying family relationships, the circumstances that exclude exemption, the mandatory evidence, and the legal consequences of non-compliance. Such consolidation would reduce interpretative fragmentation between general provisions concerning gifts and the special regime governing transfers of land and buildings.

The Ministry of Finance and the Directorate General of Taxes should redesign the Surat Keterangan Bebas (SKB) mechanism as a verification instrument rather than allowing procedural requirements to operate as de facto substantive conditions for exemption. A standardized checklist of documentary requirements should be established at the national level, accompanied by a maximum processing period and an obligation to provide specific legal and factual reasons where an application is rejected. A taxpayer who has fulfilled the statutory requirements should not be exposed to additional requirements that lack a clear legal basis.

The tax administration should implement a risk-based verification mechanism for family gifts. Transfers between direct-line relatives that present clear evidence of a genuine gratuitous transaction should be processed through a simplified verification pathway, whereas transactions containing indicators of business relationships, ownership arrangements, control, or other potential tax-avoidance risks may receive enhanced scrutiny. This differentiated approach would allow the tax authority to preserve its anti-avoidance function without imposing excessive administrative burdens on low-risk taxpayers.

The government should establish an integrated digital verification system connecting relevant tax and land-administration information, subject to applicable data-protection and confidentiality requirements. Verification of family relationships, land ownership, transaction documents, and previous tax records should be undertaken through interoperable government

systems where legally permissible. Such integration would reduce repetitive documentary demands imposed on taxpayers while simultaneously improving the state's capacity to detect artificial or disguised transactions.

The tax authority should also strengthen procedural safeguards against erroneous denial of exemptions. Every rejection should contain a clear identification of the statutory requirement considered unsatisfied, the evidence relied upon, and the legal avenue available to the taxpayer for challenging the decision. An internal review mechanism should be available before taxpayers are required to pursue more burdensome dispute-resolution procedures. This mechanism would operationalize administrative accountability and reduce unnecessary litigation.

Finally, future regulatory reform should be subjected to a taxpayer-impact and legal-certainty assessment before implementation. Any amendment affecting family gifts of land and buildings should evaluate whether the new rules increase compliance costs, create conflicting interpretations, or alter taxpayers' legitimate expectations. The objective should not merely be to maximize tax collection but to establish a tax administration in which fiscal effectiveness, taxpayer rights, and legal certainty reinforce rather than undermine one another.

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