

## Implication of Income Tax (PPH) Imposition on Land Rights Transfer to Justice Based Instructions

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### Abstract

*The legal basis for taxes imposition in Indonesia essentially comes from the regulations that have been amended to fourth amendment to the 1945 Constitution. Various regulations made by policy makers, relating to income tax matters on immovable property from inheritance are very interesting to study. Seeing from the functional side, it is generally determined that there are 2 important benefits of tax collection, these are budget function and regulating function. With regard to tax collection, taxpayers need certainty and fairness in their application. After being qualified, it turns out that there are conflicts and voids in norms, even though this should not happen in regulations making. For identification of norms, there is a conflict, that is in Article 4 paragraph (1) of the Income Tax Law. It uses the principle that tax levies will be levied on every increase in economic income obtained by legal subjects. The norm in Article 4 paragraph (3) letter b of the Income Tax Law emphasizes that inheritance is not categorized as a tax object. The research design uses normative juridical methods, and uses the Legislative Approach and Concept Approach. The results of the research show the implications of justice principle for the imposition of income tax. It must be along with principle of equality, principle of certainty, principle of pleasure, and principle of efficiency. The implications of collecting income tax on inheritance objects are still far and do not fulfill a sense of fairness because according to the rules it is only stated that the object of inheritance is not part of the object of income tax. Therefore, it is unfounded if objects obtained from inheritance are subject to income tax. There is ambiguity in the phrase "addition of economic benefits". It should be noted that the level of economic stability of the beneficiary is not the same. Efforts to achieve fair value and benefits, policy makers need to re-evaluate all regulations related to income tax.*

### Keywords

income tax; synchronization; inheritance, justice



## I. Introduction

In carrying out the implementation of development, one of the sources of capital comes from taxes, then all forms of action that are decided by the authorities and the people should be based on the established legal rules (Arliman, 2019), because the state makers have made the choice to use the principle of the rule of law, based on Pancasila and the 1945 Constitution. The basis for levying Taxes are essentially derived from the constitution as the fourth amendment to the 1945 Constitution. Article 23A states that "Taxes and other levies that are coercive for the purposes of the state are regulated in law". Essentially, the basic

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rules of policy makers in producing laws and regulations must distinguish between material content and formal content. This also applies to the regulations below.

Currently, taxes are an important capital for funding the administration of government, as we know that most of the origin of revenue in the APBN is taxes. Therefore taxes have an important meaning in development and become the backbone of a very dominant development wheel. It is undeniable that taxpayers have become contributors to development for the sake of existence of state. Meanwhile, the tax authorities as the apparatus in charge of collecting taxes has also contributed a lot in the process of collecting development funds.

Based on Article 1 paragraph (1) of Regulation no. 28 of 2007 concerning the Third Amendment to Law no. 6 of 1983 concerning General Provisions and Tax Procedures (hereinafter abbreviated as UU KUP), it is normalized that: "Taxes are obligatory contributions to the state owed by individuals or entities that are coercive in nature based on the law, without getting direct compensation and are used for the needs of the state for the greatest prosperity of its people".

It is undeniable that tax subjects become actors as well as contribute to building the state for the continuity of state's existence and existence, in terms of the nature of collecting taxes as coercion which has been regulated in the KUP Regulation. There is an opinion from Y.Sri Pudyatmoko who refers to the understanding of tax, which is based on its general function. There are 2 important functions of taxation; budgetary function and regularend function.

From legal point of view, tax levies should rely on policies that aim to guarantee legal certainty, applying to implementers as well as individuals or companies as taxpayers. In Indonesia, there are many types of taxes imposed by the government on the public, such as due to legal action, regulatory incident, and combination according to both. The accumulation of tax imposition on taxpayers can be found when the tax subject is subject to BPHTB, but at the time of solving the object, it is also subject to Income Tax (hereinafter abbreviated as PPh).

Income tax is regulated by Regulation Number 36 of 2008 concerning Amendments to Regulation Number 7 of 1983 concerning Income Tax (hereinafter referred to as the Income Tax Law) and its position as a substantive regulation in the field of taxation. As substantive tax law, its contents regulate taxation such as taxable objects, tax objects, tax standards, and tax rates. As emphasized in the regulation, the concept of income tax collection does not recognize the source of income or its source, but focuses on increasing the economic capacity of taxpayer.

Income normalization stipulated in Article 4 paragraph (1) Article 4 paragraph (1) Regulation Number 7 of 2021 concerning Harmonization of Tax Regulations Amendments to Regulation Number 36 of 2008 concerning Income Tax (hereinafter abbreviated as HPP Regulation) is as follows: "any additional economic capacity received or obtained by a Taxpayer, both from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the Taxpayer concerned, in any name and in any form". This is because the legal policy in force at the time the Income Tax Law was promulgated meets a broader understanding of income, hence all types of income earned or earned during the tax year are cumulative as the basis for taxation, therefore it will be carried out.

According to the authors, the statement above is slightly inconsistent with the aspect of justice for the heirs, that is the acquisition of inheritance or real estate objects that are not divided into units that replace the heirs, subject to a replacement tax. The use of undivided real estate under alternative taxes helps allow income from inheritance to be taxed. Inherited

goods which are not transferred and left as Domestic Taxpayers by the parties concerned will still be declared as Domestic Taxpayers after the inheritance.

Since 2018 the government would have been enacting new regulations related to taxes which are expected to have a significant impact on tax revenue. The initiation of the regulation is contained in Government Regulation Number 23 of 2018 concerning Income Tax on Income from Businesses Received or Obtained by Taxpayers Who Have a Certain Gross Turnover. After the PP was issued, various reactions emerged from the community. One of these concerns the issue of fairness to income tax collection, which was deemed waived by the declaration of government law.

Income tax is subject to additional economic capacity received or obtained by Taxpayers both from Indonesia and from outside Indonesia. Article 4 of Law Number 7 of 2021 concerning Harmony of the Taxation Law (1) Amendments to Regulation Number 36 of 2008 concerning income tax (hereinafter referred to as the HPP Regulation).

Article 1 paragraph (2) of the KUP Regulation stipulates that taxpayers are individuals and/or companies, however Article 2 paragraph (1) of the Income Tax Law states that those subject to tax are undivided entities. The normative contradiction between the two rules is that inheritance does not belong to an individual or a legal entity, which may not be designated as a taxable person, besides the purpose of replacing the heirs. Surely it is not distributed because it is unclear about who must pay taxes.

The researchers are subject to tax on additional financial capabilities obtained or received by taxpayers by classifying and accrediting various applicable laws and regulations. Meanwhile, the norm of letter b in Article 4 (3) of the Income Tax Law stipulates that inheritance is not taxed. Issue inheritance includes all types of properties both immovable and immovable. However, from observations at the KPP, many are dissatisfied with the receipt of tax invoices from the KPP which are not subject to tax due to the increase in assets by inheritance. Based on the introduction above, the problem to discuss can be formulated as follows: 1). What is the basis for collecting income tax for heirs from the properties of the testator?, 2). Is the income tax imposed on heirs based on justice?, 3). How are the future arrangements for the collection of income tax for heirs based on justice?

## **II. Review of Literature**

Related to the non-fulfillment of administrative convenience principle in SKB issuance, Income Tax of rights transfer of land and/building due to the inheritance is determined based on the following indicators:

### **2.1 Certainty**

This principle emphasizes the importance of regulatory certainty in tax collection. Rule certainty is the goal based on every law. As a result of creating binding laws and regulations in general, it must be endeavored. Hence, the provisions contained in the law are clear and firm. They do not contain double meanings, or provide opportunities for other interpretation. This certainty claims that everyone does not hesitate to carry out their obligations to pay taxes. Basically, the certainty principle means that in tax collection, there is sine qua non certainty about tax subjects, tax objects, and tax rates and how the taxation mechanism is.

### **2.2 Efficiency**

This principle relates to the cost of collecting taxes and explains that the cost must be minimized from the time the taxpayer pays tax until the tax reaches the state treasury. The component of the cost of taxation/administrative costs is a portfolio, or expenses that can be measured using the value of money (tangible) as well as those that cannot be measured using

money (intangible). That component must be issued by the taxpayer related to the application process of obligations and tax rights.

### **2.3 Convenience of Payment**

It means that taxes must be collected at the right time (pay as you earn), so that tax collection must see the state of the subject of tax law at the right time. The will of this principle is that the timeliness of tax payments should be carried out in conditions of legal subjects at pleasant times, thus it will make easier for taxpayers. In the convenience of payment principle, delay in issuance of SKB Income Tax actually creates inconvenience causing losses and even suffering for the heirs. For this matter, the heirs feel that they have lost their opportunity to develop their business to the fullest as the issuance of SKB is too long. It causes inconvenience that causes losses to the heirs.

There is an exception to the obligation to make payments in collecting income tax but without having an exemption certificate.

a. Exceptions to the obligation to pay PPh on economic additions from the acquisition of land and buildings, these are:

1. An individual whose income is below the PTKP carrying out the transfer of land and building rights with a gross total value of less than IDR 60,000,000.00 and is not divided amount;
2. Individuals who transfer land and/or building rights through grants to their siblings in a straight line of one degree, religious institutions, educational institutions, social institutions including foundations, cooperatives, MSMEs, as regulated by the Minister of Finance, as long as there are no grants made relation to business, employment, ownership, or control among affiliated people.

b. Exemption from the obligation to pay or collect Income Tax:

1. Individuals or legal entities who receive or earn income from right's transfer to land and/or buildings to the government in the context of carrying out development for the public interest requiring special requirements.
2. For the transfer of rights to land and/or buildings by an exclusive person or an entity that is not a tax subject, it is granted personally without the issuance of Income Tax-Free Certificate based on the transfer of ownership of land or buildings.

Justice as one of the goals of linear law on tax collection is intended to increase the fairness of tax collection. Justice must also be in accordance with distributive justice and exchange in this tax law. This principle of justice must always be upheld both in legislative principles and in daily operations. This is the most important joint that the state must pay attention in accelerating the tax collection target.

## **III. Research Method**

This research uses normative method, where the researcher will examine from the side of the legislation and literature study. The approach in research uses a statutory approach and a concept approach. The usefulness of statute approach is to identify and classify all laws and regulations related to the legal issue. The usefulness of the concept approach is as basis for knowing and finding conformity with the concept and its implementation. The purpose of the research is to examine, understand, and find discrepancies between *das sein* and *das sollen* regarding the Implications of the Imposition of Income Tax on Land Transfer Rights to Inheritance Based on Justice.

## IV. Discussion

### 4.1 Basis of Imposition of Income Tax for Heirs Obtained from Inheritance

In the middle of 2018, the government announced the latest regulations on the tax sector, expected to have a significant impact on tax revenue. This regulation is contained in Presidential Regulation Number 23 of 2018. After the regulation was enacted, various reactions from the public emerged. One of them concerns the issue of fairness in the imposition of Income Tax levies, as if it has been ruled out as stipulated in a law made by the government.

The tax system adopted and promulgated uses a self-assessment method. This method gives full trust to the tax subject to calculate, and pay the tax in accordance with the applicable laws and regulations. It means that the tax subject is responsible for determining the amount of unpaid tax and tax officer is responsible for checking, facilitating, investigating, monitoring, and imposing sanctions.

The results of the calculation of tax subjects are required to be reported, including if there is an increase in income, total assets, and a number of mandatory matters at the end of the previous tax year. According to the tax authorities or KPP calculations, the KPP has the right to impose sanctions by looking at legal actions or legal violations committed by taxpayers, if something unusual happens. Tax subjects are not responsible for stating the amount of obligations paid at the expense of the taxpayer. They only direct the taxpayer how to fulfill his obligations and use his rights in a way that does not violate.

The collection of Income Tax on the acquisition of the ownership transfer of land and buildings is guided by Decree Number. 34 of 2016. Derivative Regulation Number 261/PMK.03/2016 Minister of Finance (PMK) relates to the process of filing, reporting, and exempting of income tax obtained from the transfer of rights originating from the inheritance process. Contracts for the sale of real estate and/or buildings, as well as land and/or buildings and their modifications are based on Article 1 Based on Government Regulations Number 34 of 2016. Income Tax is subject to Income Tax originating from the rights' transfer to land and/or buildings, or based on a binding agreement on the sale and purchase of land and/or buildings.

Rights' transfer to land and/or buildings that are subject to income tax are sales, grants, transfer of rights, transfer of rights, auctions, grants, inheritance, or other mechanisms provided by the testator. Government Regulations Number 34 of 2016 is for income received by dedicated individual, or legal entity based on binding contract to transfer ownership of land or buildings, or buy or sell land or buildings with changes, the state receivables on income tax are final.

There are three criteria for the imposition of tariffs: 2.5%, 1% and 0%, the value of tariff is based on the type of transaction. This will be deducted from the total transfer amount. Article 6 Letter a Government Regulations Number. 34 of 2016 provides exemption from the obligation to pay or collect income tax for monopoly companies whose income is below tax-free income (PTKP), transferring land and/or building rights using the gross amount of transfer of less than IDR 60,000,000.00. In addition, it is not divided amount. The prevailing regulation states that the taxpayer is exempt from collecting final income tax on the transfer of ownership of land and buildings. They must go through certain mechanism and must be carried out by the taxpayer in order to avoid the imposition of final income tax.

In order to exclude inheritance based on collection of income tax fees on income from land and/building rights, Article 3 paragraph (1) letter a of the Regulation of the Director General of Taxes Number 30/PJ/2009 concerning Procedures for Granting Exceptions based on the obligation to pay or collect income tax for income derived from the ownership transfer



of land or buildings, transfer of rights to land and/or buildings by inheritance requires the use of SKB.

Based on the same regulation, Article 4 Paragraph three point a states that the application for obtaining Certificate of Free Income Tax on income according to the transfer of rights to land and/or buildings is accompanied by: a). Statement of income under non-taxable income, with value of less than IDR 60,000,000.00; b). Copy of Family Card; and c). Copy of SPPT PBB of the year concerned.

For tax subject in the matter of right transfer to land and/or buildings, the total amount of the transfer as the basis is IDR 60,000,000.00 of the undivided total gross income. Furthermore, having income under PTKP can be excluded based on the imposition of final income tax if it has SKB Income Tax based on the transfer of rights to land and/or buildings or a binding sale and purchase agreement on land and/or buildings along with the amendments.

The application for obtaining Income Tax-Free Certificate based on land or building ownership transfer is submitted in writing the name of the direct person, or entity transferring ownership of land or building to the local Tax Service Office (KPP). The application is done by the person or company concerned, registered or domiciled using the format synchronously using Attachment I to the Regulation of the Director General of Taxes No. PER-30/PJ/2009.

If the rights to land and/or buildings are transferred due to inheritance, the application for a certificate of exemption from income tax by the rights' transfer to land and/or buildings must be submitted by the heirs. In applying for obtaining Income Tax-Free Certificate based on the transfer of rights to land and/or buildings as referred to in paragraph (1) shall be submitted by: 1). An individual with income at minimum limit of non-taxable income who transfers land and/or building rights using a gross amount of less than IDR 60,000,000.00 and not divided amount, the application must be attached using: a). Statement of Income Below Non-Taxable Income and Gross Amount of Transfer of Land and/or Building Rights; b). Copy of Family Card; and c). Copy of Land and Building Tax Payable Tax Return for the year concerned; 2). Individuals or entities who wish to transfer land and/or buildings through grants, the request must be followed by a statement of grants in predetermined format; 3). Meanwhile, all heirs related to the request are required to have a Deed of Distribution of Inheritance.

The head of tax office must make a decision within three days in weekdays to file certificate of exemption from income tax from the rights' transfer of land and/or building. The date of application for certificate of exemption from income tax from the rights' transfer of land and/or buildings has been received in full. If the time limit set by the Head of the Tax Service Office is not fulfilled, the application is considered approved and the Head of the Tax Service Office is obliged to issue Income Tax Free Certificate from the transfer of ownership of land or buildings on the 2nd day. Taxpayers have 2 days after the deadline above ends.

If applying for Income Tax Free Certificate based on the transfer of rights to land and/or buildings is accepted, the Head of the Tax Service Office is required to issue Income-Tax Free Certificate on income based on the transfer of rights to land and/or buildings using a synchronous format using Attachment V to the Regulations of Director General of Taxes number PER-30/PJ/2009.

#### **4.2 Aspects of Justice in Imposition of Income Tax on Heirs**

Efforts to establish tax system must meet the criteria, one of these criteria is applying the principle of justice. Fair indicators in the context of tax (tax justice) can be assumed that taxpayers pay a fair share of government costs. There are two types of tax justice, these are vertical justice and horizontal justice. Vertical equity is often explained by saying that high-income people pay more taxes.

Horizontal equity, on the other hand, is explained by the theorem that two people with the same income pay the same amount of tax. Vertical justice is seen from the subject (taxpayer) side, and horizontal justice is seen from the tax subject's point of view. There are two approaches as indicators to measure the fairness of taxes imposed on the community, these are principle of utility (pay for performance) and the principle of efficiency (solvability). In fact, assigning services to dissenting public service users can be progressive or regressive.

From justice perspective, the imposition of a progressive tax rate is optimal, while the value of benefits based on the concept accepted by the payer is taxable. The examples are the spectator tax; *ad valorem*; *benzin opzetten*, etc. Sometimes the imposition of personal tax levies associated with these benefits causes the costs to be too high. In this case, taxes are imposed on complementary goods, for example SWP3D (compulsory donations for the development and maintenance of regional infrastructure).

In this case, the purpose of the tax is to maintain the road, but the car is taxed. The concept of solvency does not consider the relation between tax (income side) and profit (expenditure side). Decide how many services offered, each taxpayer will pay according to his ability.

There are several measures to determine the ability to pay, these are (a) income; (b) consumption; (c) wealth. In addition to the measures mentioned, the situation of the taxpayer must also be taken into account. The question coming is how to measure the minimum age or primary needs. Some writers assume that the main needs are not just the minimum physical needs. However, it includes all the needs that are treated to claim a commensurate life using human prestige by taking into account the existing civilization.

However, they agree that luxuries and social needs that distinguish one's position from others deserve to be excluded from primary needs. Family composition is also influenced by other factors: the state's financial position, income distribution, and the purchasing power of money. With this condition, it is clear that the imposition of stakes should be oriented towards justice. Justice according to Aristotle in his theory is very appropriate to be used to examine the relation of taxes imposition on inheritance.

Tax justice varies from country to country, and justice from one country is not necessarily justice in another. For example, Japan exempts civil servants from income tax, for the government. The Indonesian government has also released civil servants, TNI/POLRI soldiers, and low-income retirees according to income tax, this provision is regulated in Government Regulation Number 80 of 2010 which has been in effect since January 1st, 2011.

This tax exemption for civil servants does not apply equally to all countries because it is adapted according to their respective regulations. In achieving justice, one way that must be taken is ensuring that tax collection efforts are carried out in generic and equitable manner. If viewed generically on the imposition of taxes for the people of its country, it is evaluated that Indonesia has implemented distributive justice. Citizens who have contributed to the state are not subject to tax, even citizens with PTKP (tax-free income) income are not required to file or pay taxes, according to the Tax Secretary.

This was marked by revision of the 2014 Minister of Finance Regulation (PMK) Number 243 to PMK Number 9 of 2018 concerning Notification Letters (SPT). Even though these citizens are exempt from taxes, the state still offers the same protection. Facilities such as citizens who pay their taxes as expressed in the fairness of exchange, the state also sees obstacles for citizens to pay taxes. Inheritance tax is fair from the state's point of view, as the tax office imposes taxes on heirs who inherit assets that are not recorded in the SPT of the heirs for life.

The taxation of the heirs in particular on land and/or buildings is regulated in Circular No. SE20/PJ/2013, and Substantive Part No. 2 letter c contains SKBPPH on income from the

rights' transfer to land and/or buildings are given only if the inherited land and/or buildings are reported to the income tax of the heirs in the Annual SPT, unless the heir has income under Non-Taxable Income". The tax authorities collect taxes because the state never pays taxes on land or buildings. Therefore, there is no element of double taxation prevention. Even the state offers tax exemption to taxpayers which actually increases their income tax free-Taxable Income (PTKP). Although many taxpayers do not have NPWP, the lack of awareness of taxpayers to report their wealth to the state through the existing taxation system causes problems when the heirs are inherited by the heirs in the future.

Tax law aims to create legal certainty. This means that the concept of legal certainty cannot question legal provisions. Income Tax is a type of subjective tax whose tax obligations are attached to the relevant Tax Subject (Hendayana, 2021). Legislation must be applied consistently for the same situation continuously. As a result, the law must be drafted in such a way and using it will not give anyone the opportunity to put another interpretation according to the wishes of the law producer. Tax collection must follow the principle of certainty of rules issued by the government. To fulfill the provisions of this principle in our country, it is carried out in accordance with the law and therefore provides legal certainty in tax collection in Japan is guaranteed by the provisions of the Constitution contained in Article 23 letter a of the 1945 Constitution.

In the principle of law, *lex Superior derogat legi loweri* means that higher law trumps a lower law. However, because there is no requirement in the Income Tax Act, in the implementation of inheritance tax, this is very contrary to this principle. Besides, there are exceptions, but there are exceptions below (Government Regulations Number 48 of 1994 and PER-30/PJ/2009). In addition, the Tax Secretary has issued a circulation considered not in accordance with legal norms because the legal source of Article 7 of Regulations Number 12 of 2011 concerning Indonesian laws and regulations does not include such circulation.

Nevertheless, this circulation applies to all Indonesians who have inherited land or buildings. Inheritance tax is already regulated by law, thus its circulation should not be used as the basis for implementing inheritance tax. However, Article 23 (a) of the 1945 Constitution regulates for people with lower regulations / It is clearly stated that taxation is not allowed by law. This inheritance tax does not achieve one of the legal goals of legal certainty because it is in conflict with the rules. Even its implementation is very disturbing to the community. The amount of public awareness reduces the level of tax compliance, thereby reducing public confidence in law enforcement due to the lack of legal certainty.

Everyone expects benefits from law enforcement, thus we must consider the benefits of law. This is preventing law enforcement from causing public insecurity. Satjipto Raharjo's statement states that justice is one of the most important values to be considered in addition to other values such as profit. Yet the comparison of profits and sacrifices in law enforcement must be proportional. Jeremy Bentham, argues that on the other hand, believes that the purpose of law is simply to bring the greatest benefit or happiness to as many people as possible. Maintenance is based on the social philosophy that all citizens seek happiness, and the law is one of its tools.

The state uses taxes to bring benefits and welfare to its citizens and as a tool to bring money to the state treasury for the greatest prosperity of the people. Tax is a mandatory donation to the state owed by an exclusive person or entity that is coercive according to law, does not receive exclusive rewards, and is used for state needs for the greatest prosperity of the people (Regulation No. 28 of 2007 article 1 paragraph 1 regarding KUP ).

Collecting taxes is also obliged to pay attention to the function or benefits obtained both for the state as a tax collector, as well as the people being the party being collected. The tax system in Indonesia adheres to a self-assessment system, meaning that taxes must be authorized to calculate, report, and pay for the amount of tax owed themselves. With the



implementation of a self-assessment system, it means that the state has confidence in the people of its country.

#### **4.3 Future Arrangements for the Income Tax Imposition that Meets the Aspect of Justice**

If the taxpayer registers the rights' transfer of land and / or buildings by inheritance, the taxpayer can exclude the heirs from collecting and paying inheritance tax. This is carried out based on Article 2 and Article 3 of the Regulation by the Director General of Taxes Number 30/PJ/2009 concerning Procedures for Granting Exemptions from Obligation to Pay or Collect Income Tax from the rights transfer of land and/or buildings. In Article 2 SE of Directorate General of Tax states that transfer of land and/or building rights due to inheritance is excluded from the obligation to pay or collect income tax.

Article 3 explains further that exemption from the obligation to pay or collect income tax based on inheritance is granted by issuing a certificate of exemption from income tax. Based on PER-30/PJ/2009, it is stated that there are conditions for land and/or building to be considered as tax-free inheritance. Therefore, an SKB (Certificate of Exemption) of Income Tax can be issued. The conditions are:

- 1) The heirs must be related in a straight line;
- 2) Assets and immovable objects are on the deceased's annual tax return (SPT). Announced and accrued taxes (if any) must be paid in advance.

Further provisions regarding the SKB are regulated by the Director General of Taxes Decree No. SE20/PJ/2015, which states: Real estate is included in the annual SPT real estate tax unless the examiner's income is below taxable income.

In simple management concept, tax collection must pay attention to the principles that underlie tax collection. There are four indicators that can be used to assess government policies in collecting and/or paying taxes based on the principles of manageability (administrative ease), these are certainty, efficiency, convenience of payment, and simplicity.

### **V. Conclusion**

Based on the results of research and discussions above, there are conclusions as follows:

1. Article 2 paragraph (1) letter a stipulates that undivided inheritance is subject to tax, and letter b in Article 4 paragraph (3) stipulates that inheritance is taxed, not a target. Heirs who receive additional income from inherited assets are exempted from the obligation to pay Income Tax from the transfer of rights to land and/or buildings granted with the issuance of SKB Income Tax. Inheritance items reported in annual SPT Income Tax inheritance, heirs under tax-free income (PTKP) from land and/or building rights, and the total transfer amount are in accordance with Government Regulations No.71/2008 and SE20/PJ/2015. The exception is for income less than IDR 60.000.000. Based on the SE issued by the Director General of Taxes, it cannot be used as a binding basis for taxpayers because SE is not categorized as legal basis. The laws and regulations governing the imposition of taxes on inherited objects besides immovable objects and/or buildings have no rules, hence legal vacuum is qualified.
2. Tax collection for heirs to increase income from inheritance for legal purposes achieve elements of justice, both distributive and exchangeable. Nevertheless, it has not fulfilled the element of legal certainty because there are still conflicts of norms and legal loopholes. On the other hand, the imposition of taxes on the heirs does not benefit the heirs.

3. There is a need for synchronization of laws and regulations in taxation, particularly with regard to income tax whose object comes from inheritance. Based on the principle of taxation, imposition of income tax from inheritance still does not meet the aspect of justice, as the tax subject is subject to two collections of one object. The collection comes from BPHTB as well as from income tax from objects transferred to the heirs. Despite an economic addition, the economic capacity of the legal subject concerned must be considered.

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