

The Legal Framework and Taxation of Non-Fungible Tokens

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Abstract

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In order to ensure clarity, it is imperative that tax legislation regarding non-fungible tokens (NFTs) in Indonesia incorporates considerations of assessment values, collection procedures, and technical advancements. This would facilitate the seamless integration of NFTs into the country's economic system, while awaiting prompt government action. Discussions concerning legal protection for NFTs, particularly in the context of tax law, remain limited, with an emphasis on existing research pertaining to copyright law and intellectual property rights. The aim of this study is to scrutinize the legal protection of NFTs, specifically in relation to tax law, with the intention of providing a comprehensive understanding of NFTs within Indonesia's legal framework. This study employs a normative juridical research methodology to evaluate the legal protections afforded to NFT artworks, as well as the associated aspects of taxation. The normative juridical approach is an analytical strategy that scrutinizes legal norms and established legal concepts. The study utilizes a combination of primary and secondary legal sources, which are subsequently subjected to thorough analysis and assessment. The analysis reveals that there are currently no tax liabilities associated with NFTs in Indonesia. Consequently, due to the absence of tax legislation, there is a lack of regulations governing the taxation of NFTs and other cryptocurrencies. Evading taxes could potentially result in a decline in government revenue from the informal sector. Therefore, stringent oversight and judicious regulation are essential for establishing a transparent and equitable legal framework for NFTs and cryptocurrencies in Indonesia.

1. Introduction

In the world of digital art and blockchain technology, non-fungible tokens (NFTs) have taken center stage¹. This has led to a new trend in digital asset ownership and trading. NFTs, which stand for Non-Fungible Tokens, are a type of cryptocurrency that cannot be exchanged for one another, bringing unique and incomparable characteristics to each asset they represent. Through NFTs, there is an inherent authenticity and specialness to each representation of digital assets. This dynamic has changed the paradigm in how we understand the value and uniqueness of an asset in the digital realm, expanding the space for creativity and the value of digital art. The case of NFTs has created huge implications, especially in the established art industry. Not only does it stop there, but NFTs have also penetrated other sectors such as gaming, music, and virtual property. Relying on blockchain technology, NFTs provide a secure and transparent way to transfer ownership of digital assets between users. However, along with their growing popularity come major challenges, such as concerns over the

¹ Ranti Fauza Mayana et al., "Intellectual Property Development & Komersialisasi Non-Fungible Token (NFT): Peluang, Tantangan Dan Problematika Hukum Dalam Praktik," *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan* 5, no. 2 (2022): 202–20, <https://doi.org/https://doi.org/10.23920/acta.v5i2.812>.

environmental impact of energy-consuming crypto mining activities. The debate is growing on how to address these concerns without hindering the development of innovations in technology.

As the NFT market continues to evolve, regulators and stakeholders are engaged in discussions to develop a framework that ensures sustainability and consumer protection. They are looking for ways to address the risks of market manipulation, fraud, and digital security. While there are pros and cons related to NFTs, it is undeniable that this phenomenon is creating a fundamental shift in the paradigm of digital asset ownership and will continue to be a subject of further debate and exploration in the future. With the evolution of the times, technology is growing rapidly, especially in digital commerce. This phenomenon is fueled by people's efforts to find solutions for a more efficient and affordable life. One of the major trends in today's digital culture is the dominance of NFTs (non-fungible tokens). NFTs are a type of digital asset that can be traded using cryptocurrency. This concept of non-fungible tokens involves a wide variety of digital assets, ranging from artwork, music, animated GIFs, and videos. NFTs provide a platform for a huge variety in the world of digital assets, offering new opportunities for users to expand their exploration and creative expression².

NFTs, or non-fungible tokens, are digital representations stored in blockchain technology, a distributed system of records. Used in digital environments such as Bitcoin, Ethereum, and Solana, NFTs enable high-security transactions. It is a form of financial protection that consists of secure digital information on the blockchain. With an unforgeable structure, NFTs ensure the authenticity and ownership of a digital asset. As such, it records and validates the unique ownership of various digital items, such as art, collectibles, or other virtual goods³. One key difference between NFTs is their ability to generate distinctive digital assets, as each NFT token has its unique characteristics. In addition, another trait that NFTs possess is their ability to be recorded in the blockchain network structure. Information about the ownership, origin, and journey of NFTs can be monitored directly due to the transparency of NFTs on the blockchain. The authenticity and impossibility of counterfeiting NFTs are guaranteed, as each token is permanently recorded in a digital ledger that cannot be manipulated. In this regard, the decentralized network also allows for stronger authentication of NFTs⁴.

The absence of legal regulations related to NFT works may result in criminal acts against them, especially those that violate intellectual property rights. NFTs have no mechanism to verify the authenticity of a work. Copyright rules also do not provide for transparency in NFT works, allowing anyone to quickly retrieve them anonymously in the blockchain system. This allows claiming and modifying works through tokenization, even if they are not the original

² Michael Angelo and Nyoman Satyayudha Dananjaya, "Perlindungan Non-Fungible Token Art: Inovasi Karya Cipta Perspektif Hak Cipta," *Jurnal Magister Hukum Udayana* 11, no. 3 (2022): 629-42, <https://doi.org/10.24843/JMHU.2022.v11.i03.p11.Tujuan>.

³ Aufar Abdul Aziz, "Pembangunan Hukum Nasional Menghadapi Non-Fungible Tokens Dalam Revolusi Digital," *Jurnal Lex Renaissance* 7, no. 2 (2022): 358-71, <https://doi.org/10.20885/jlr.vol7.iss2.art10>.

⁴ Alis Yulia, Rima Duana, and Nina Herlina, "Pengaruh NFT Terhadap Perlindungan Hak Cipta Dan Dampaknya Terhadap Pencemaran Lingkungan," *Jurnal Ilmiah Galuh Justisi* 10, no. 1 (2022): 92-101, <https://doi.org/10.25157/justisi.v10i1.7192>.

work, making it easier to plagiarize others' works without permission and profit from them. Furthermore, when a work has been tokenized as an NFT, its ownership record is permanently recorded in the blockchain system, unable to be altered, deleted, or stolen. Therefore, the individual who first registers the work as an NFT is recognized as the legal owner. According to OpenSea, at least 80% of the NFTs created through the platform are duplicates, fake collections, or unauthorized content⁵. OpenSea is the inaugural and most extensive online marketplace for crypto collectables and non-fungible tokens (NFTs). The OpenSea platform facilitates the purchase, sale, and auction of NFTs⁶.

However, OpenSea has solved this problem by implementing a duplicate detection system that has two levels. At the first level, they use digital image recognition technology to examine all NFTs and compare them to the original NFT collection. This technology looks for possible content that has been altered, modified, or rotated. After that, the decision on deletion will involve human intervention. At an advanced level, OpenSea also requires account verification through filling out a verification form for users who have more than 100 ethereum in their collection on the platform. Ether serves as a medium of exchange within the Ethereum network, allowing users to make transactions, pay network fees, and acquire services offered on the platform. Like Bitcoin, ETH is also considered a scarce digital asset that has value and enables global transfers of value without the involvement of third parties. Ethereum users can use ETH for a variety of purposes, including the purchase of goods and services and as an investment. Ether is often used to support the development of new projects within the Ethereum ecosystem, such as decentralized applications (dApps) and smart contracts, making it one of the leading cryptocurrencies in the blockchain space.

Nevertheless, NFTs, especially in Indonesia, currently need a legal framework that regulates their existence. The proliferation of technology underscores the necessity for a proactive legal reaction, particularly in the enforcement of regulations and legal safeguards. The proliferation of non-fungible tokens (NFTs) as a method for generating economically valuable creations necessitates substantial legal engagement in the realm of technological advancements. NFTs, also known as non-fungible tokens, have emerged as a prominent force in the digital realm, exerting a substantial influence on the worldwide asset market. Furthermore, NFTs can be classified as valuable assets or high-value assets, akin to cryptocurrencies and other digital assets based on blockchain technology⁷. However, the legal position of NFTs and cryptocurrencies in Indonesia remains to be determined. Existing legislation in Indonesia does not now acknowledge the legality of NFTs and cryptocurrencies.

At a basic level, the Income Tax Law has outlined parameters that define what is considered a tax subject, covering all forms of financial growth obtained by individuals who are tax subjects, whether it comes from within the country or abroad. In this context, recent developments such as NFTs (non-fungible tokens) and cryptocurrencies are entities that can be considered taxable. However, the vagueness of the legal framework regarding the taxation

⁵ Ni Kadek Risma Setya Cahyani Dewi and Ida Ayu Sukihana, "Perlindungan Hukum Terhadap Karya Seni Dalam Bentuk Non-Fungible Token (NFT)," *Jurnal Kertha Wicara* 11, no. 4 (2022): 906-18, <https://doi.org/https://doi.org/10.24843/KW.2022.v11.io4.p19>.

⁶ Ozone Networks Inc, "Company: About," 2024, <https://opensea.io/about>.

⁷ Erdina Louise Oudang, "Legal Review of Digital Asset Development in Indonesia," *Jurnal Scientia* 12, no. 2 (2023): 1562-69, <http://infor.seaninstitute.org/index.php/pendidikan/article/view/1422>.

of NFTs remains an unsolved issue. The expansion of the NFT and cryptocurrency markets has given rise to the need for a clear legal foundation regarding their tax aspects. The presence of strict laws on how NFTs are taxed is crucial given the rapid growth rate of the market today. Tax regulation is not just an instrument to collect funds but also an important tool in overseeing and regulating NFT transactions as a whole, providing clarity for market participants and the government. To date, there are no detailed and specific regulations governing taxation measures on NFTs in Indonesia. The absence of a clear legal basis can lead to varying interpretations and is prone to abuse. Therefore, it is important to immediately formulate specific and comprehensive regulations for taxing NFTs to ensure clarity, fairness, and transparency for all parties involved. Given this situation, how would tax law apply to NFT transactions in Indonesia?

The subject surrounding tax law concerning the NFT phenomenon has not gained significant prominence in general discourse. Discussions about the legal safeguarding of NFTs are still confined to a few legal mechanisms associated with copyright legislation, as exemplified by the research undertaken by Ghina Nabilah et al. in 2024 entitled “Copyright Law Protection in Metaverse, The Sandbox Based on Positive Law in Indonesia”⁸ and also the paper titled “*Perlindungan Hukum Hak Cipta Karya Seni Lukis Berbasis Non-Fungible Token (NFT) di Indonesia*” was authored by Rifki Yustisio and others⁹. Furthermore, conversations around NFTs frequently revolve around intellectual property rights, as exemplified by the 2023 study by I.B.G.A. Mahaputra and I. K.B. Kurnianta entitled “Legal analysis of the Protection of NFT (Non-Fungible Token) Art Content in the Perspective of Law in Indonesia”¹⁰, Sofia Maria Teodora Dume in 2023 entitled “Navigating the NFT Landscape: Intellectual Property Challenges and Opportunity”¹¹, and Matheus Puppe Magalhaes in 2023 entitled “Non Fungible Tokens as a Way to Protect Global Intellectual Property”¹². In the same year, Habbi Firlana and Pascalis Dani Kriti Wibowo also discussed intellectual property in an article entitled “The Future of Intellectual Property Protection: Issues Against the Metaverse and Non-Fungible Tokens (NFTs)”¹³. Similarly, referring to the article entitled “Regulating Innovation: Addressing the Potential Threats of NFT and Metaverse on Intellectual Property

⁸ Ghina Nabilah, Miranda Risang Ayu Palar, and Helitha Novianty Muchtar, “Copyright Law Protection in Metaverse, The Sandbox Based on Positive Law in Indonesia,” *Jurnal Indonesia Sosial Teknologi* 5, no. 1 (2024): 139–51, <https://doi.org/10.59141/jist.v5i01.857>.

⁹ Rifki Yustisio, Abdullah Widy As-shidiq, and Muhammad Syafiq Wafi, “Perlindungan Hukum Hak Cipta Karya Seni Lukis Berbasis Non-Fungible Token (NFT) Di Indonesia,” *PUSKAPSI Law Review* 3, no. 2 (2023): 255–76, <https://doi.org/https://doi.org/10.19184/puskapsi.v3i2.43954>.

¹⁰ I.B. Gede Agustya Mahaputra and I Komang Bintang Kurnianta, *Legal Analysis of the Protection of NFT (Non-Fungible Token) Art Content in the Perspective of Law in Indonesia* (Atlantis Press SARL, 2023), https://doi.org/10.2991/978-2-38476-180-7_60.

¹¹ Sofia Maria Teodora Dume, “Navigating The NTF Landscape: Intellectual Property Challenges and Opportunities,” *AGORA International Journal of Juridical Sciences* 17, no. 2 (2023): 29–35, <https://doi.org/https://doi.org/10.15837/aijjs.v17i2.6464>.

¹² Matheus Puppe Magalhães, “Non-Fungible Tokens As a Way To Protect Global Intellectual Property,” *Malaysian Journal of Syariah and Law* 11, no. 2 (2023): 420–25, <https://doi.org/10.33102/mjssl.vol11no2.475>.

¹³ Habbi Firlana and Pascalis Dani Kriti Wibowo, “The Future of Intellectual Property Protection: Issues Against The Metaverse and Non-Fungible Tokens (NFTs),” *Indonesian Law Journal* 16, no. 2 (2023): 185–204, <https://doi.org/10.33331/ilj.v16i2.137>.

Rights”¹⁴. Hence, this research study aims to examine the legal protection for NFTs, specifically focusing on the tax law aspect in Indonesia to understand NFTs comprehensively from the perspective of tax law in Indonesia.

2. Methods

This study uses a normative juridical research approach to assess the legal protection given to non-fungible token (NFT) works as well as the related taxation elements. The normative juridical method is a research strategy that examines knowledge by analyzing legal regulations and established legal conceptions. The study utilizes both primary and secondary legal sources, which are subsequently subjected to thorough analysis and evaluation¹⁵. The focus of this study is on the legal regulations surrounding NFTs, scrutinizing the applicable legal aspects. The main sources of information used consist of relevant legal bases along with additional references such as books, literature, and journals. These sources serve as a supporting database that enriches the analysis and enables the researcher to present a comprehensive evaluation of the legal protection and tax implications of NFTs in the context of applicable law. The key reference materials for this research consist of a collection of various papers, such as legislative laws, scientific articles on NFTs, legal protection, and other important topics. The research is primarily focused on describing the phenomena being studied, and therefore requires the collection of appropriate data. The gathered data is examined utilizing qualitative methodologies.

3. Results and Discussion

Indonesia currently lacks a well-defined legislative framework to support the concept of NFTs. A legal basis, as defined by the legal dictionary, is a framework that safeguards and establishes the fundamental principles of a concept. Law is an alternative interpretation of the term "legal basis". The law, functioning as a system of regulations, serves to govern conduct and acts as a crucial mechanism of social regulation. E. Utrecht's perspective posits that law encompasses a collection of directives and prohibitions that possess obligatory authority inside a society, serving as guidelines for life. It becomes an obligation for citizens to comply with it in order to maintain order in interacting and living. However, the implementation of NFTs is still constrained by the absence of an explicit legal basis. As is known, NFTs are a unique and exclusive form of digital asset because their ownership is limited to only one individual. With NFTs, digital works can be represented by tokens that act as official signs of ownership. In addition, NFTs can also function as a platform to encourage community creativity, especially among the millennial generation, in creating digital content contained in NFTs. In the realm of the market, financial benefits can be obtained from superior and most innovative works. However, NFTs can be mistakenly interpreted as a place for illegal trading or even a place to leak personal information. This should be against the law due to the lack of understanding and socialization from the government. In Indonesia, the absence of regulations related to NFTs has raised concerns, especially for the public or artists who want

¹⁴ Annisa Hafizhah, Aji Baskoro, and Aisha Radha Wahyuda, "Regulating Innovation: Addressing The Potential Threats of NFT and Metaverse on Intellectual Property Rights," *Arthavidya Jurnal Ilmiah Ekonomi* 25, no. 1 (2023): 56-74, <https://doi.org/10.37303/a.v25i1.316>.

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2015).

to take advantage of this technology to gain huge profits. The presence of NFTs poses great challenges in the application and development of the law as the assets that are part of the ownership of such goods are governed by several regulations governing them, such as copyright and ownership. These transactions also have an impact on the tax obligations that must be applied to the seller as they generate profits. Nonetheless, NFTs also carry the risk of crime, as was previously the case in OpenSea, where some uploads sold photo IDs in violation of privacy. Proprietary digital assets such as NFTs have the potential to be misused for illegal activities such as money laundering. Trading artworks through NFTs should not involve photo IDs as they are not works and cannot be protected by copyright. The legal concerns commonly linked to NFTs mostly revolve around two key aspects: The absence of explicit legislation about NFTs enables a minority of individuals to exploit the digital market for illicit activities, such as the unlawful trade of personal information like ID card photographs. Furthermore, there is a lack of widespread knowledge among the general public regarding digital marketplaces and their consequences, particularly in Indonesia, where the population is still adapting to the changing nature of digitalization¹⁶.

Based on observations, the presence of NFTs significantly influences society. The law, a set of regulations governing human social interactions, seeks to regulate human conduct, societal norms, and institutions. The current phenomenon can be elucidated by the proliferation of technology that commenced in the 1980s, commonly denoted as a pivotal transformation in digital technology. Digital methods were also crucial in advancing the Industrial Revolution. NFTs address legal and policy concerns across diverse domains. Areas that may raise concerns include commodities, transactions across borders, and managing KYC (Know Your Customer) data. Cryptocurrencies and NFT sales are subject to stringent legal regulations in several countries, notably India and China. Engage in the acquisition, barter, vending, or procurement of NFTs. Users are legally restricted to trading derivatives exclusively on regulated exchanges, such as equities and commodities, or engaging in person-to-person exchange of tokens. Countries like Malta and France are endeavouring to enact rules specifically designed to regulate digital asset services. In other locations, the issue is resolved by using pre-existing legislation¹⁷. Dedy Permadi, representing the Ministry of Communication and Information Technology of Republic of Indonesia, emphasized that all electronic system operators (PSEs) must check that the platforms they operate are not used for activities that are against the law¹⁸. This action must be carried out in accordance with the regulations contained in Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as Law No. 11/2008), as well as other applicable legal regulations. The integration of NFTs into the Indonesian legal system can be achieved by obtaining official recognition from the government, similar to the process undergone by peer-

¹⁶ Dina Aidah Norasari, "Lack of Protection for Non-Fungible Token (NFT) Creators in Indonesia: A Progressive Legal Study," *Rechtsidee* 10, no. June (2022), <https://doi.org/https://doi.org/10.21070/jjhr.v10i0.783>.

¹⁷ Qin Wang et al., "Non-Fungible Token (NFT): Overview, Evaluation, Opportunities and Challenges," *Cryptography and Security*, 2021, <https://doi.org/https://doi.org/10.48550/arXiv.2105.07447>.

¹⁸ Kominfo, "Percepat Transformasi Digital, Pemerintah Targetkan 4G Merata Akhir 2022," *Berita Kominfo*, 2020, https://www.kominfo.go.id/content/detail/29309/percepat-transformasi-digital-pemerintah-targetkan-4g-merata-akhir-2022/0/berita_satker.

to-peer lending organizations during their initial stages. Due to the novelty and lack of regulations around blockchain technology, the government may establish a regulatory framework to evaluate the trustworthiness of blockchains in relation to NFT transactions. Indonesia currently lacks explicit rules pertaining to non-fungible tokens (NFTs). Currently, Commodity Futures Trading Supervisory Agency (BAPPEBTI) continues to oversee all NFT transactions in Indonesia due to the inclusion of NFTs in the crypto asset category¹⁹.

As of March 2022, BAPPEBTI stated that it still needs time to make specific regulations for NFT in Indonesia. The BAPPEBTI Bureau Chief also noted that NFT is not only related to commodities but also related to IT²⁰. Therefore, coordination meetings with ministries or agencies related to the drafting of the framework are required. NFTs have a significant impact on various areas of law in Indonesia, including in terms of the law on ownership of goods. Under Article 499 of the Civil Code, a thing is defined as an item or right that can be the object of ownership. Although the origins of property law date back to the colonial era and were not designed to accommodate digital things, the legal concept of ownership has started to recognize the existence of non-physical digital assets, such as receivables, rights claims, and copyrights. This is explained in Article 16, paragraph 1, of Law Number 28 of 2014 concerning Copyright. However, several regulations that address various issues related to NFTs are already in place. Firstly, the issue is that NFTs are traded as a cryptocurrency asset and treated as a futures commodity. Secondly, the issue of information and electronic transactions arises due to the digital nature of NFT trading. Thirdly, the issue of intellectual property rights refers to the condition that NFTs are creative works or discoveries that can be registered with the government. Fourthly, the issue of money laundering and terrorism financing arises from NFTs, which have the potential to be used as a means of committing these criminal acts²¹.

In the midst of developments in Indonesia, awareness regarding the recognition of digital goods is increasing, along with the sustainability of Government Regulation Number 80 of 2019 concerning Trade Through Electronic Systems. In the context of Indonesian law, Non-fungible tokens (NFTs), which are digital codes, can be interpreted as a form of digital goods. In addition to falling within the scope of property regulation, NFTs are also related to intellectual property law. Article 25 of Law No. 11/2008 protects electronic information that forms philosophical works, websites, and scientific works based on applicable rules. In this context, NFTs can be considered part of intellectual property rights as they are works of art encrypted and stored in a blockchain network. As with other artworks such as music,

¹⁹ Lely Maulida and Yudha Pratomo, "Bagaimana Regulasi NFT Yang Ideal Di Indonesia," Kompas.com Tekno, 2022, https://tekno.kompas.com/read/2022/03/03/08010067/bagaimana-regulasi-nft-yang-ideal-di-indonesia-?page=all#google_vignette.

²⁰ Ahmad Fahmi Burhan and Desy Setyowati, "Bappebti Butuh Waktu Mengatur NFT Meski Perdagangannya Kian Marak," Katadata Fintech, 2022, <https://katadata.co.id/desysetyowati/digital/622b35467c0c8/bappebti-butuh-waktu-mengatur-nft-meski-perdagangannya-kian-marak>.

²¹ Fahrurrozi Muhammad, "Menimbang Perlunya Regulasi Yang Lebih Komprehensif Tentang Non-Fungible Tokens," *Majalah Hukum Nasional* 52, no. 2 (2021): 189-207, <https://doi.org/10.33331/mhn.v52i2.171>.

videos, or gaming goods encrypted in blockchain networks, NFTs are often associated with copyright. The creator of a work immediately holds the copyright to it²².

Intellectual property rights can arise when the individual holding the work on the blockchain is not the original creator and does without the consent of the creator or copyright holder. In these circumstances, the copyright owner has the right to sue the individual who converted the work into an NFT for copyright infringement. Consequences for copyright infringers may include imprisonment for up to 2 years and a maximum fine of IDR 300 million. Ownership of an NFT does not automatically confer exclusive copyright rights to the digital asset it represents. A person who creates content can still sell NFTs representing his work and even generate more NFTs from the same source. The main function of an NFT is as a proof of ownership, which is different from copyright. The circumstances under which copyright can be transferred to the buyer only occur when there is an explicit agreement between the content creator and the buyer of the NFT. However, the copyright remains with the content creator, while the buyer only has ownership of the NFT.

Just like crypto assets, NFTs are also tied to trading rules in Indonesia due to their ability to be traded. In Indonesia, the buying and selling of crypto assets is generally regulated by the Ministry of Trade and the Commodity Futures Trading Supervisory Agency (BAPPEBTI). Although there are rules related to the purchase of crypto assets in the Minister of Trade Regulation No. 99/2018, which reviews the General Policy for the Implementation of Crypto Asset Commodity Futures Trading, currently, NFTs are still outside the scope of applicable regulations in Indonesia. The legal status of NFTs should be established to determine the appropriate form of protection and the eligible parties involved in NFT transactions. However, there is currently a legal vacuum in this regard, leading to uncertainties and challenges. Conversely, in an NFT transaction, there exists the potential for a seller to vend a fraudulent or imitation NFT digital asset, which can detrimentally impact the buyer. Regarding cybersecurity, dealers have the potential to market non-existent or counterfeit NFTs. There exist other scenarios in the realm of cybersecurity when sellers assume the identities of others in order to vend a non-fungible token (NFT)²³. Although there are legal regulations covering NFTs, there are no precise and specific provisions. The void in such regulations can be addressed by the creation of new laws that specifically address NFT-related issues. Therefore, there is a need for legal regulations governing NFTs in order to guarantee firm and clear legal protection.

Products relating to intellectual property (such as art, publications, domain names, etc.) are subject to taxation according to the existing legislative framework. Nevertheless, this scope does not include sales based on non-fungible tokens (NFTs). Although the Internal Revenue Service (IRS) in the United States treats cryptocurrencies as property and taxes them accordingly, the majority of countries still need to address this matter. This could exacerbate financial illicit activities disguised as NFT trading. Governments must establish a system that

²² Mahaputra and Kurnianta, *Legal Analysis of the Protection of NFT (Non-Fungible Token) Art Content in the Perspective of Law in Indonesia*.

²³ Daniel Horasman Napitupulu and Kholis Roisah, "Non-Fungible Token (NFT) in the Perspective of Intellectual Property Rights in Indonesia," *International Journal of Social Science and Human Research* 06, no. 05 (2023): 3084–88, <https://doi.org/10.47191/ijsshr/v6-i5-75>.

ensures the dependability of NFT sales while also imposing tax implications. More precisely, each participant should bear the tax responsibility for any profits from the sale of NFT assets. Furthermore, exchanges involving NFT-to-NFT, NFT-to-IP, and Eth-to-NFT (or vice versa) are subject to taxation. Additionally, for high-income properties or collectibles, it is necessary to apply a higher tax bracket²⁴. Rochmat Soemitro defines a tax as a monetary commitment made by the public to the state's budget, which is governed by legislation and must be complied with without immediate compensation. Revenue from this tax is used to finance public needs and transfer some wealth from the community to the state treasury to support routine expenditures. The remaining excess tax revenue is then allocated for the benefit of public savings and becomes the main source of funding for public investment.

The current taxation legislation in Indonesia about NFTs mostly centers around income tax (PPh), as stated by the Directorate General of Taxes and the Minister of Finance. Neilmaldrin Noor, the Director of Counseling, Services, and Public Relations at the Directorate General of Taxes of the Ministry of Finance, stated that the taxation of NFT transactions will be determined by the restrictions outlined in Law Number 36 of 2008 concerning Income Tax. He also emphasized that NFT transactions that have an impact on economic growth will be subject to income tax. If NFTs are considered intangible types of taxable goods, value-added tax (VAT) can be applied. If the revenue earned from the sale of NFTs reaches a certain threshold, the seller will be considered a taxable entrepreneur (PKP) who must charge 10% VAT. Taxpayers must comply with income tax payment obligations for cryptocurrency transactions, including NFTs, as individuals. They have to record it in their annual tax return. However, one of the main problems is the lack of understanding of the tax system. The impact is non-compliance with reporting tax obligations by the public and users of digital currencies such as cryptocurrencies and NFTs. This situation could potentially reduce the tax revenue generated for the Indonesian state from investments using cryptocurrencies.

Regarding transactions supported by cryptocurrency or cryptocurrency, the income received from NFT digital asset transactions will be subject to a tax rate of 0.1% for cryptocurrency sellers and cryptocurrency miners as regulated in PMK No. 68/PMK.03/2022. Meanwhile, the income obtained from Electronic Trading System Providers will be subject to a 22% tax as regulated in Article 28 Paragraph 3 of Minister of Finance Regulation No. 68/PMK.03/2022 about Value Added Tax and Income Tax on Crypto Asset Trading Transactions, in conjunction with Article 17 of Law No. 7 of 2021 concerning Harmonisation of Tax Regulations²⁵. When there are no tax provisions governing cryptocurrencies and digital assets, or NFTs, in Indonesia, there are opportunities to avoid tax liability. With tax regulations, especially for cryptocurrency investors, still unclear in Indonesia, state revenue from taxes on cryptocurrency and NFT investment transactions has not reached the best level. Although the potential is large, tax revenue is still low and not optimized. Therefore, the presence of legal regulations covering digital assets and digital currencies is very important. With such regulations in place, there will be legal guidelines that can establish the tax rules

²⁴ Wang et al., "Non-Fungible Token (NFT): Overview, Evaluation, Opportunities and Challenges."

²⁵ Annisa Intan Dwitanti and Dian Puji Simatupang, "Tax Imposition Ang Legal Enforcement on the Digital," *UNRAM Law Review* 6, no. 2 (2022): 255-62, <https://doi.org/https://doi.org/10.29303/ulrev.v6i2.250>.

applicable to transactions involving cryptocurrency, a type of crypto asset, in Indonesia. In addition, there is a need for strict supervision of tax collection on digital assets, or NFTs.

4. Conclusions

This study emphasises the pressing need for legal regulations concerning non-fungible tokens (NFTs) and tax protection in Indonesia. NFTs, being a distinctive type of digital asset, currently exist in a legal grey area in Indonesia. Although NFTs grant sole ownership of digital assets, the absence of tax regulations creates a regulatory gap regarding tax obligations for transactions utilising NFTs and other cryptocurrencies. This could lead to possible tax avoidance and reduced governmental revenue from the industry. The absence of clear guidelines regarding tax regulations for cryptocurrency investors has a direct impact on the total tax revenue generated. The deficiencies in legal restrictions on digital assets and cryptocurrencies highlight the necessity for robust and unambiguous legislation. Hence, comprehensive laws can facilitate the establishment of equitable tax liabilities and offer directives for transactions involving cryptocurrencies in Indonesia. Furthermore, there is an urgent requirement for rigorous oversight of tax collection about digital assets, including NFTs. Efficient and optimal tax collection on digital asset transactions necessitates the use of certain measures. Hence, meticulous enforcement of legislation and rigorous oversight are crucial foundations for establishing a transparent and equitable legal framework regarding NFTs and digital currencies in Indonesia.

When formulating tax legislation about NFTs, it is crucial to meticulously contemplate factors such as the magnitude of the tax levied, the method of imposition, and the procedure for collection. Establishing legal clarity will enhance the understanding of tax responsibilities for NFT holders, offer a clear path for the market, and create a robust foundation for the government to efficiently oversee and regulate NFT activities. In light of these conditions, it is imperative to implement regulatory revisions that align with advancements in technology and emerging economic patterns. Establishing legal recognition and implementing appropriate tax arrangements are crucial measures for the seamless integration of NFTs into Indonesia's economic framework, ensuring compliance and long-term viability. In due course, it is anticipated that the government will address the evolving nature of the NFT market by formulating an all-encompassing legal framework that fosters the advancement of blockchain technology and associated digital assets.

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7. Reference

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