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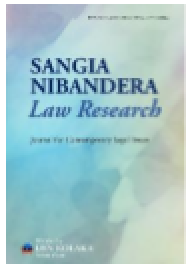

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A Legal Review of the Acquisition Duty on Land and Building Rights on Inheritance in Kolaka Regency

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Abstract

The imposition of Land and Building Acquisition Duty (Bea Perolehan Hak atas Tanah dan Bangunan/BPHTB) on inherited property raises legal concerns because heirs are subject to taxation that is generally associated with commercial acquisition of property, although inheritance arises from a familial relationship rather than an economic transaction. This study aims to examine the application of BPHTB provisions on inheritance from the perspectives of justice and legal certainty and to analyze the civil law consequences of treating inheritance as an acquisition equivalent to commercial property transactions. This study employs a normative-empirical legal research method using statutory and conceptual approaches. Data were obtained through library research and interviews and were analyzed qualitatively. The results indicate that the imposition of BPHTB on inheritance has a clear normative legal basis under Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments and Kolaka Regent Regulation Number 6 of 2024. However, its implementation remains suboptimal due to the absence of uniformity regarding the time when BPHTB becomes payable and the lack of standardized valuation of taxable objects. Furthermore, the application of BPHTB on inheritance does not fully reflect substantive justice because heirs are subject to taxation similar to parties acquiring property through commercial transactions. From a civil law perspective, inheritance rights should transfer automatically upon the death of the deceased based on the principle of *saisine* as provided in Articles 830 and 833 of the Indonesian Civil Code. Nevertheless, formal recognition of such rights may be delayed because payment of BPHTB is required prior to the transfer of registration, causing the registration process, which should be declarative, to functionally operate as constitutive. Therefore, clearer regulations on the tax liability of inherited property, uniform valuation standards, and a distinct taxation mechanism for inheritance should be established to strengthen justice and legal certainty.

Keywords
BPHTB; Inheritance; Tax Justice; Legal Certainty; Inheritance Rights.

A. Introduction

Taxation is one of the main instruments used by the state to finance government administration and development. Within the framework of regional autonomy, local taxes constitute one of the sources of Regional Original Revenue and must be collected on the basis of clear legal provisions that provide certainty for taxpayers. One of the local taxes imposed in Indonesia is the Land and Building Acquisition Duty (*Bea Perolehan Hak atas Tanah dan Bangunan* or BPHTB), which is levied on the acquisition of rights to land and/or buildings. The current legal basis for BPHTB is Law Number 1 of 2022 concerning Financial Relations between the Central

Government and Regional Governments. This regulation includes the acquisition of rights through inheritance as one of the objects subject to BPHTB. Consequently, the acquisition of rights to land and/or buildings through inheritance is not only regarded as a legal event within the sphere of civil law, but also gives rise to consequences under tax law.[1]

The problem arises because the legal character of the acquisition of rights through inheritance is fundamentally different from that of acquisition through commercial transactions. In a sale and purchase, the acquisition of rights arises from an agreement between the parties and an exchange of economic value, whereas in inheritance, rights are acquired as a consequence of the legal relationship between the deceased and the heirs following the death of the deceased. Under civil law, Article 830 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPerdata) provides that inheritance occurs because of death, while Article 833 essentially provides that the heirs, by operation of law, acquire the rights and obligations of the deceased. Thus, inheritance rights arise by operation of law and not as a result of an economic transaction. This distinction becomes significant when the acquisition of rights through inheritance is subject to BPHTB within a taxation framework that is also generally applied to acquisitions of a commercial nature.[2]

In practice, this issue concerns not only whether BPHTB has a legal basis but also when BPHTB on inherited property becomes due and how the taxable object is valued. Certainty regarding the time when tax becomes payable is an essential element of legal certainty because taxpayers must be able to clearly determine when their tax obligations arise and when those obligations must be fulfilled. Studies concerning BPHTB in land transactions have demonstrated that uncertainty regarding the timing of payment may result in differences in interpretation and implementation among institutions and

[1] Republik Indonesia, *Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah*, Lembaran Negara Republik Indonesia Tahun 2022 Nomor 4.

[2] Republik Indonesia, Kitab Undang-Undang Hukum Perdata.

regions.[3] Similar problems can be observed in the context of inheritance BPHTB, particularly when payment of BPHTB is treated as a prerequisite for the registration or transfer of inherited land into the heir's name. Research on inheritance BPHTB in Malang, for example, has identified legal certainty problems concerning the determination of *market value* as the basis for taxation, particularly where the applicable value does not have sufficiently clear parameters.[4]

The valuation of taxable objects is also closely related to the principle of justice. The Tax Object Sale Value (*Nilai Jual Objek Pajak* or NJOP) used in determining the tax base does not necessarily reflect the actual market value of the property. In the context of inheritance, this may become problematic because heirs do not acquire land and/or buildings through a transaction that generates profit or involves an exchange of economic value. If the amount of BPHTB is determined on the basis of a property value that does not fully reflect the taxpayer's economic circumstances and is nevertheless imposed within a framework similar to that applicable to commercial acquisitions, it becomes necessary to examine whether such taxation satisfies substantive justice. Research on BPHTB in the transfer of ownership through inheritance has also identified problems concerning the transparency of NJOP assessment, differences in the interpretation of regional regulations, and administrative complexity that may hinder taxpayers in fulfilling their BPHTB obligations.[5]

Kabupaten Kolaka is one of the regions implementing BPHTB collection on the basis of national legislation and regional regulations. Peraturan Bupati Kolaka Number 6 of

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[3] Cecillia Kurniawaty, Lastuti Abubakar, and Mohamad Akyas, "Kepastian Hukum Penundaan Pembayaran BPHTB dalam AYDA Lelang dalam Perspektif Hukum Perbankan dan Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Daerah," Acta Diurnal: Jurnal Ilmu Hukum Kenotariatan ,Vol. 6, No. 1 (2022) 15.

[4] Sandi Permana Nugraha, Tunggul Anshari Setia Negara, and Dyah Widhiawati, "Legal Certainty of Inheritance BPHTB Collection by BAPENDA Malang City," International Journal of Educational Review, Law and Social Sciences, Vol. 3, No. 1 (2023) , hal. 1771

[5] Praninditya Estri Fauzia, *"Keabsahan Akta Pembagian Hak Waris Yang dibuat oleh Notaris sebagai Dasar Peralihan Hak Atas Tanah",* Ranah Reseacrh, Vol. 7 (3), (2025), 1934.

2024 concerning General Provisions and Procedures for the Collection of Regional Taxes and Regional Levies constitutes one of the technical legal bases for regional tax collection, including BPHTB. Based on this research, the regulation places the acquisition of rights through inheritance within the scope of BPHTB together with other forms of acquisition, such as sale and purchase, exchange, grants, and testamentary grants. The distinction in treatment is primarily reflected in the determination of the Non-Taxable Acquisition Value of the Tax Object (*Nilai Perolehan Objek Pajak Tidak Kena Pajak* or NPOPTKP), while the technical mechanism for collecting BPHTB on inheritance has not been substantially separated from that applicable to commercial acquisitions.[6] This situation indicates both normative and practical problems concerning whether the specific legal characteristics of inheritance have been adequately accommodated in the BPHTB collection mechanism at the regional level.

Previous studies have examined various aspects of BPHTB and inheritance. Fengki Markos, Anriz Nazaruddin Halim, and Sartono examined the legal certainty of BPHTB payment prior to the registration of inherited property, focusing on the use of NJOP as the basis for determining the tax burden. Their study demonstrated that legal certainty may be problematic where the value used to determine BPHTB does not have clear parameters.[7] Meanwhile, research by Enrico Kusuma Danghamsyah and Putu Edgar Tanaya specifically examined BPHTB in the transfer of ownership rights resulting from inheritance. Their study identified several obstacles, including limited transparency in NJOP assessment, inadequate public understanding, differences in the interpretation of regional regulations, and administrative complexity.[8] Research by Sandi

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[6] Pemerintah Kabupaten Kolaka, *Peraturan Bupati Kabupaten Kolaka Nomor 6 Tahun 2024 tentang Ketentuan Umum dan Tata Cara Pemungutan Pajak Daerah dan Retribusi Daerah*.

[7] Fengki Markos, Anriz Nazaruddin Halim, and Sartono, "Kepastian Hukum Pelunasan Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB) Sebelum Balik Nama Waris Dikaitkan dengan Penggunaan Nilai Kewajaran Nilai Jual Objek Pajak (NJOP)," *Themis: Jurnal Ilmu Hukum* , Vol. 2, no. 2 (2024), 86.

[8] Enrico Kusuma Danghamsyah dan Putu Edagr Tanaya, " *Aanlisis Bea Perolehan Hak Atas Tanah Dan Bangunan (BPHTB) Pada Peralihan Hak Milik Akibat Proses Turun Waris*", Jurnal Kertha Semaya, Vol. 12 (12), (2024), 3403

Permana Nugraha, Tunggul Anshari Setia Negara, and Dyah Widhiawati similarly demonstrated that the regulation of *market value* in the collection of inheritance BPHTB has not yet provided adequate legal certainty.[9]

Studies concerning legal certainty in the transfer of land rights through inheritance have also demonstrated that registration issues cannot be separated from the protection of heirs' rights. Dedi Nurhadi identified inconsistencies between the regulation of the registration of land rights transferred through inheritance and land administration practices, particularly concerning the use of inheritance distribution deeds. Such conditions may create uncertainty for heirs as recipients of inherited rights.[10] Other research concerning inherited land that has not been registered indicates that failure to register inherited property may create difficulties for heirs in undertaking legal acts concerning the inherited land.[11] Accordingly, the relationship between inheritance, tax obligations, and registration of rights needs to be examined comprehensively to prevent administrative requirements from obscuring the legal position of rights already acquired by heirs under civil law.

Although previous studies have examined inheritance BPHTB, NJOP, legal certainty of tax payment, and registration of inherited land, there remains a limitation in studies that integrate **tax law with the civil law consequences of inheritance**. Previous research has generally focused on technical aspects of BPHTB collection, NJOP valuation, or legal certainty in the registration of transferred rights. There has been limited research specifically questioning the legal consequences of treating the acquisition of rights through inheritance which occurs as a consequence of death and a familial legal relationship within a taxation mechanism similar to that applicable to commercial acquisitions. This issue is

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9 Nugraha, *Op.cit*, Hal. 1780.

10 Dedi Nurhadi, "Kepastian Hukum Terhadap Pendaftaran Peralihan Hak Atas Tanah Melalui Pewarisan Berdasarkan Akta Pembagian Hak Waris," *Jurnal Hukum Sasana* , Vol. 10, no. 2 (2024), Hal. 191.

11 Arief Rahman, Zaeni Asyhadie, Shinta Andriyani, and Diman Ade Mulada, "Pendaftaran Tanah Warisan yang Belum Dibagi Waris," *Journal Kompilasi Hukum, Vol.* 5, no. 1 (2020), Hal. 9.

important because, under civil law, inheritance rights arise upon the death of the deceased pursuant to Articles 830 and 833 of the Indonesian Civil Code.[12]

This gap becomes increasingly significant when BPHTB payment is made a prerequisite for the registration or transfer of inherited rights. Conceptually, registration of inherited rights serves to provide administrative certainty and evidentiary value concerning rights already acquired by the heirs under civil law. However, when such registration can practically be completed only after the BPHTB obligation has been fulfilled, the registration process may functionally produce consequences resembling a constitutive function. This does not mean that heirs should be exempted from their tax obligations; rather, it raises a legal question concerning the construction that places a tax obligation as an administrative prerequisite for the formal recognition of rights that have already been acquired through inheritance. Within this context, the principle of *saisine* becomes relevant in examining the relationship between the acquisition of inheritance rights and the fulfillment of administrative tax obligations.

The novelty of this research lies in integrating three aspects that have generally been examined separately, namely **BPHTB taxation, the principles of justice and legal certainty, and the civil law consequences of the acquisition of rights through inheritance**. This research does not merely examine whether inheritance may constitute an object of BPHTB under the HKPD Law, but also analyzes whether its implementation adequately considers the different characteristics of inheritance and commercial acquisition. In addition, this research uses Kabupaten Kolaka as an empirical context to examine the relationship between national legal provisions, Peraturan Bupati Kolaka Number 6 of 2024, and the practical implementation of BPHTB collection. Interviews with officials of the Regional Revenue Agency of Kabupaten Kolaka indicate that, substantively, the local government recognizes that acquisition through inheritance differs from acquisition through sale and

[12] Republik Indonesia, *Kitab Undang-Undang Hukum Perdata*.

purchase, although both remain subject to BPHTB under the applicable regulations.[13]

Based on the foregoing, this study aims to analyze the implementation of BPHTB provisions concerning inheritance in Kabupaten Kolaka from the perspectives of justice and legal certainty and to examine the civil law consequences of treating the acquisition of rights through inheritance as equivalent to commercial acquisition for BPHTB purposes. The research addresses two principal questions: first, how is BPHTB on inheritance implemented in Kabupaten Kolaka when assessed from the principles of justice and legal certainty; and second, what are the civil law consequences of treating the acquisition of rights through inheritance as equivalent to commercial acquisition subject to BPHTB? This research is expected to contribute to the development of studies in regional tax law and inheritance law by clarifying the relationship between tax obligations, certainty in land administration, and the legal position of heirs under civil law.

B. Method

This research employs a **normative-empirical legal research method.** The normative aspect focuses on examining the positive legal norms governing the imposition of Land and Building Acquisition Duty (*Bea Perolehan Hak atas Tanah dan Bangunan* or BPHTB) on inherited property, while the empirical aspect examines the implementation of these legal provisions in practice, particularly by the competent authorities. This method is used to examine not only the applicable legal rules but also the principles of law, the legal system, and the consistency between statutory provisions and their implementation in practice.[14]

The research employs two approaches, namely the **statutory approach** and the **conceptual approach**. The statutory approach is applied by examining the relevant legislation and regulations governing BPHTB on inheritance,

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[13] Ade Tya Lestiana, wawancara oleh Aqyllah Zalzah, Badan Pendapatan Daerah Kabupaten Kolaka, 30 Desember 2025.

[14] Muhaimin, *"Metode Penelitian Hukum"*, (Mataram : Mataram University Press : 2020).

including Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, the Indonesian Civil Code, and regional regulations concerning BPHTB. This approach is used to analyze the consistency and compatibility between national and regional regulations and to identify potential overlaps or inconsistencies in their implementation. The conceptual approach is used to examine relevant legal principles, doctrines, and concepts concerning BPHTB, inheritance, justice, legal certainty, and the acquisition of land and building rights through inheritance.[15]

The research uses **primary and secondary data**. Primary data were obtained directly from the field through interviews with relevant parties involved in the implementation of BPHTB on inheritance in Kabupaten Kolaka, particularly officials of the Regional Revenue Agency (*Badan Pendapatan Daerah*). The interviews were conducted to obtain factual information regarding the implementation of BPHTB on inherited property and to identify practical issues encountered in fulfilling BPHTB obligations. Secondary data were obtained through library research and consisted of primary and secondary legal materials. Primary legal materials include relevant legislation and regulations, while secondary legal materials include books, scholarly journals, academic articles, and previous studies related to BPHTB, regional taxation, land rights, and inheritance law.[16]

Data collection was conducted through **library research and interviews.** Library research was used to examine written legal materials obtained from legislation, legal literature, scholarly journals, and other relevant sources. Interviews were conducted as a supporting technique to obtain information directly from the relevant authorities concerning the practical implementation of BPHTB on inheritance in Kabupaten Kolaka.[17]

The data were analyzed **qualitatively** by examining, interpreting, and comparing the relevant legal provisions with

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15 *Ibid,* Hal. 56.

16 Djoni Sumardi Gozali, *"Ilmu Hukum dan Penelitian Ilmu Hukum"*, (Yogyakarta : UII Press Yogyakarta : 2020).

17 Wiwik Sri Widiarty, *"Buku Ajar Metode Penelitian Hukum",* (Yogyakarta : Publika Global Media :2024). Hal. 151.

the information obtained from the field. The analysis was directed toward determining the extent to which the implementation of BPHTB on inheritance in Kabupaten Kolaka is consistent with the principles of justice and legal certainty, as well as identifying the differences between the applicable legal norms and their implementation in practice.[18]

C. Result and Discussion

1. Implementation of BPHTB on Inheritance in Kabupaten Kolaka from the Perspectives of Justice and Legal Certainty

The imposition of Land and Building Acquisition Duty (*Bea Perolehan Hak atas Tanah dan Bangunan* or BPHTB) on inheritance in Kabupaten Kolaka has a normative basis in Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments and is implemented at the regional level through Peraturan Bupati Kolaka Number 6 of 2024 concerning General Provisions and Procedures for the Collection of Regional Taxes and Regional Levies. Under the applicable legal framework, the acquisition of rights to land and/or buildings through inheritance constitutes an object of BPHTB. Therefore, from a normative perspective, the imposition of BPHTB on inherited property has a clear statutory basis.[19]

The legal construction of BPHTB, however, needs to be examined in relation to the different characteristics of inheritance and commercial acquisition. Article 830 of the Indonesian Civil Code provides that inheritance occurs because of death, while Article 833 establishes that the heirs acquire the rights of the deceased by operation of law.[20] Accordingly, inheritance is a legal event arising from death and the legal relationship between the deceased and the heirs, rather than from an economic transaction. By contrast, acquisition through

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[18] Nursapia Harahap,*"Penelitian Kualitatif"*, (Medan: Wal Ashri Publishing: 2020).

[19] Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah Pasal 44 ayat (2) huruf a angka 5.

[20] Desi Redhawati dan Darmini Roza, *"Pendaftaran Peralihan Hak Milik Atas Tanah Karena Pewarisan Dalam Rangka Menjamin Kepastian Hukum"*, Ekasakti *Legal Science Journal*, Vol. 2 (2), (2025).

sale and purchase arises from an agreement between the parties and involves an exchange of economic value. This distinction is important in assessing whether the application of the same general BPHTB framework to both forms of acquisition adequately reflects the principle of justice.

Law Number 1 of 2022 does provide a specific provision concerning the time when BPHTB on inheritance becomes payable. Article 49 letter c stipulates that BPHTB on inheritance becomes due on the date when the heir or a person authorized by the heir registers the transfer of rights with the relevant land office.[21] This provision provides formal legal certainty concerning the point at which the tax obligation arises. Nevertheless, its practical application remains closely connected to the administrative process of registering inherited rights. Consequently, the legal issue is not the complete absence of a statutory provision concerning the time when BPHTB becomes due, but rather the practical relationship between the occurrence of inheritance, the acquisition of rights by the heirs, registration of the inherited rights, and fulfillment of the BPHTB obligation.

The implementation in Kabupaten Kolaka demonstrates that the administrative process of BPHTB on inheritance is closely related to the completeness and clarity of inheritance documentation. Based on interviews conducted with the Regional Revenue Agency (*Badan Pendapatan Daerah*) of Kabupaten Kolaka, taxpayers seeking to process BPHTB on inherited property are required to submit documents establishing the inheritance and the property concerned. Problems may arise when the inheritance certificate is incomplete, the identity of the heirs has not been clearly established, or the distribution of inherited property has not yet been determined. In such circumstances, the Regional Revenue Agency is unable to determine the tax obligation optimally because the administrative basis for the acquisition of the property has not been sufficiently clarified.[22]

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[21] *Ibid*

[22] Ade Tya Lestiana, wawancara oleh Aqyllah Zalzah, Badan Pendapatan Daerah Kabupaten Kolaka, 13 Maret 2026.

This finding indicates that the implementation of BPHTB on inheritance cannot be separated from the civil law status of the inherited property. Before the tax obligation can be administratively determined, the authority needs to know who the heirs are, what property is inherited, and how the property is distributed. Therefore, uncertainty concerning inheritance documentation may subsequently affect the tax administration process. The problem demonstrates that BPHTB on inheritance operates at the intersection of civil inheritance law, land administration, and regional taxation.

Another important issue concerns the determination of the taxable value. The calculation of BPHTB requires the determination of the Acquisition Value of the Tax Object (*Nilai Perolehan Objek Pajak* or NPOP) and the applicable Non-Taxable Acquisition Value (*Nilai Perolehan Objek Pajak Tidak Kena Pajak* or NPOPTKP). In practice, the determination of the value of land and buildings may involve NJOP, which does not necessarily correspond to the actual market value of the property. Previous research has also identified the determination of property value as one of the legal problems in inheritance BPHTB, particularly where the applicable value does not provide a sufficiently clear and uniform basis for determining the taxpayer's obligation.[23]

The problem of valuation is relevant to the principle of **justice** because the tax burden should correspond to the legal and economic circumstances underlying the acquisition. An heir does not acquire inherited property through an economic exchange comparable to a sale and purchase. The acquisition results from the death of the deceased and the legal succession of property to the heirs. Therefore, although inheritance may legitimately be classified as an object of BPHTB by statute, the implementation of the tax should take into account the distinctive characteristics of inheritance so that formal equality does not produce substantive inequality.

The principle of justice is particularly relevant when considering that the heir may not have the same economic position as a purchaser who voluntarily enters into a

[23] Gladwin Wijaya dan Urbanisasi, *"Keadilan dan Kepastian Hukum dalam Sistem Perpajakan Indonesia",* Jurnal Pengabdian Masyarakat dan Riset Pendidikan, Vol. 4 (2), (2025), Hal. 11916.

transaction to obtain land or a building. Treating both forms of acquisition within the same general taxation framework may be justified from the perspective of the statutory classification of BPHTB, but it requires careful consideration from the perspective of substantive justice. The distinction between legal acquisition through inheritance and economic acquisition through a commercial transaction should therefore remain visible in the mechanism used to determine and collect the tax.

In addition, the findings indicate that some taxpayers perceive the BPHTB process for inherited property as complicated and time-consuming. Problems concerning incomplete documents, uncertainty regarding the division of inheritance, and differences between the assessed value and the perceived market value may increase the administrative burden on heirs. These practical circumstances demonstrate that legal certainty is not limited to the existence of written legislation. Legal certainty also requires that the applicable provisions be sufficiently clear, predictable, and consistently implemented so that taxpayers are able to understand their rights and obligations.[24]

From the perspective of **legal certainty**, therefore, the implementation of BPHTB on inheritance in Kabupaten Kolaka may be divided into two dimensions. First, there is formal legal certainty because Law Number 1 of 2022 expressly recognizes inheritance as an acquisition subject to BPHTB and specifically regulates the time when the tax becomes due. Second, there are practical challenges affecting substantive certainty, particularly in relation to documentary requirements, valuation of inherited property, and the administrative implementation of the tax obligation. This distinction is important because the existence of a legal provision does not automatically eliminate uncertainty in its application.

The findings are consistent with previous research showing that inheritance BPHTB continues to encounter problems concerning the determination of taxable value, administrative requirements, and legal certainty. Danghamsyah

[24] Angelina Clarabella, *"Penerapan Pengampunan Pajak Yang Berbasis Keadilan Dan Kepastian Hukum Bagi Wajib Pajak",* Jurnal Spektrum Hukum, Vol. 19 (1), (2021), Hal. 25

and Tanaya, for example, identified problems concerning NJOP transparency, differences in the interpretation of regional regulations, public understanding, and administrative complexity in the implementation of BPHTB on inheritance.[25]

Nugraha, Negara, and Widhiawati likewise found that the determination of the market value of inherited land and buildings raised legal certainty concerns.[26] These findings strengthen the argument that the principal problem is not merely whether inheritance may be subject to BPHTB, but how the tax is implemented in a manner that is consistent with justice and legal certainty.

Accordingly, the implementation of BPHTB on inheritance in Kabupaten Kolaka can be considered **formally lawful but not yet fully optimal in terms of substantive justice and practical legal certainty**. The statutory framework already provides a legal basis for taxation and determines the point at which BPHTB becomes due. However, the implementation still faces challenges relating to the valuation of inherited property, completeness of inheritance documents, administrative procedures, and the different legal characteristics of inheritance and commercial acquisition. These circumstances demonstrate the need for a more specific and consistent mechanism for the implementation of BPHTB on inheritance.

2. Civil Law Consequences of Treating Inheritance Acquisition as a Commercial Acquisition Subject to BPHTB

The acquisition of rights through inheritance has a distinctive legal character under Indonesian civil law. Article 830 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHPerdata) provides that inheritance occurs only because of death.[27] Accordingly, the death of the deceased constitutes the legal event that opens the inheritance and causes the estate to pass to the heirs. Unlike a commercial acquisition, the transfer of inheritance rights does not arise from an

[25] Danghamsyah, *Op.cit*, Hal. 3407
[26] Nugraha, *Op.cit,* Hal. `1786
[27] Kitab Undang-Undang Hukum Perdata, Pasal 830

agreement or an active legal act undertaken by the heir. The heir acquires the rights because of the legal relationship established by succession.[28]

This characteristic is reflected in the principle of *saisine*, according to which the rights and obligations of the deceased are transferred to the heirs automatically by operation of law upon the death of the deceased.[29] The principle demonstrates that the substantive rights of the heirs arise independently of the administrative registration of the inherited property. In other words, registration is not the legal source of the inheritance right but serves to provide administrative and evidentiary certainty concerning a right that has already arisen by operation of law.[30] This distinction is particularly important when examining the relationship between inheritance rights and BPHTB obligations.

The distinction between inheritance and commercial acquisition becomes more apparent when compared with a sale and purchase. A sale and purchase constitutes a reciprocal agreement in which one party transfers an object and the other party provides a counter-performance in the form of a price.[31] In inheritance, however, there is no equivalent economic exchange between the deceased and the heirs. The heir obtains the property because of the death of the deceased and the operation of inheritance law. Therefore, although both inheritance and sale and purchase may be categorized as acquisitions of rights

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[28] Intan Permatasari, Firman Floranta Adonara dan Bhim Prakoso, *"Pengenaan Bea Perolehan Hak Atas Tanah Dan Bangunan Pada Perjanjian Pengikatan Jual Beli*", Action Research Literate, Vol. 8 (5), (2024), Hal. 6.

[29] Marleen Natania dan Gracia Suha Marifa, *"Analisis Hukum Terhadap Kebijakan Perpajakan di Indonesia: Implikasi Terhadap Keadilan Sosial dan Pembangunan Ekonomi",* JETBUS Journal of Education Transportation and Business, Vol. 1 (2), (2024), Hal. 919.

[30] Naflah Faadiyah,, Muhammad Syaifuddin dan Agus Trisaka, "*Validitas Perjanjian Pengikatan Jual Beli: Dasar Terutangnya Bea Perolehan Hak Atas Tanah Dan Bangunan",* Repertorium: Jurnal Ilmiah Hukum Kenotariatan, Vol. 13 (1), (2024), Hal. 24.

[31] Eneng Juandini Dkk, "*Akibat Hukum Menunda Pembayaran Pajak Bea Perolehan Hak Tanah Dan Bangunan (BPHTB) Terhadap Pengalihan Hak Atas Tanah"*, Jurnal Ilmiah Rechtszekerheid, Vol. 1 (2), (2024), Hal. 145.

for BPHTB purposes, their underlying civil law mechanisms are fundamentally different.[32]

From the perspective of tax law, inheritance is nevertheless included as an acquisition subject to BPHTB. Law Number 1 of 2022 recognizes inheritance as one of the events giving rise to the acquisition of rights to land and/or buildings subject to BPHTB. The inclusion of inheritance within the BPHTB regime constitutes a statutory taxation policy and does not alter the civil law character of inheritance. Consequently, the existence of a BPHTB obligation should be understood as a **public-law consequence** of the acquisition, rather than as the legal source of the heir's substantive right.[33]

The legal issue becomes more complex in relation to the registration of inherited land and/or buildings. Article 49 letter c of Law Number 1 of 2022 determines that BPHTB on inheritance becomes due when the heir or a person authorized by the heir registers the transfer of rights with the relevant land office.[34] Thus, the legislation expressly connects the time when BPHTB becomes payable with the registration of the transfer of the inherited right. In practice, however, the registration process is also connected with the fulfillment of the BPHTB obligation. This creates an important legal relationship between taxation and land registration that needs to be distinguished from the substantive acquisition of inheritance rights.

The findings of this research in Kabupaten Kolaka indicate that heirs generally process BPHTB in connection with the registration or transfer of inherited land into their names. The Regional Revenue Agency (*Badan Pendapatan Daerah*) processes the BPHTB application on the basis of the documents submitted by the taxpayer. Where inheritance documents are

[32] Adinda Putri Kamalia dkk, *"Pajak Daerah Dan Pajak Pusat : Menuju Sistem Pajak Nasional Yang Berkeadilan"*, Neraca Manajemen Ekonomi, Vol. 5 (11), (2024), hal. 3.

[33] Evie Rachmawati Nur Ariyanti dan Ita Nailul Mutiah, *"Hak Dan Kewajiban Wajib Pajak Serta Otoritas Perpajakan Setelah Keluarnya Undang-Undang Nomor 7 Tahun 2021 Tentang Harmonisasi Peraturan Perpajakan"*, ADIL: Jurnal Hukum, Vol. 14 (1), (2023), Hal. 11.

[34] Suli Mei Sari dkk, *"Analisis Terhadap Fungsi Pajak Sebagai Alat Pengaturan Dalam Pembangunan Nasional"*, IKRAITH-HUMANIORA, Vol. 9 (2), (2025), Hal. 846-847

incomplete, the identity or number of heirs is unclear, or the distribution of the inheritance has not been determined, the administrative processing of BPHTB may be delayed.[35] This demonstrates that the practical recognition of inherited land is closely connected with the fulfillment of administrative and tax requirements.

From the perspective of civil law, however, the existence of such administrative requirements does not mean that the inheritance right itself arises only after BPHTB has been paid. The right has already arisen upon the death of the deceased in accordance with Articles 830 and 833 of the Indonesian Civil Code.[36] Consequently, the registration of the inherited property should principally be understood as an administrative act that confirms and records the transfer of a right that has already occurred by operation of law.

This distinction gives rise to a potential legal problem when BPHTB payment becomes a practical prerequisite for the registration of inherited rights. Based on the analysis in this research, the substantive inheritance right has arisen automatically through the principle of *saisine*, but its formal recognition through land registration may be delayed until the BPHTB obligation has been fulfilled.[37] In this situation, registration, which should essentially have a declaratory character, may functionally assume a constitutive effect because the heir's ability to obtain formal recognition of the right is practically dependent upon the fulfillment of a tax obligation.[38]

Such a condition does not mean that the BPHTB obligation has no legal basis. BPHTB remains a valid regional tax imposed pursuant to Law Number 1 of 2022. The problem instead concerns the **relationship between the tax obligation and the**

[35] Ade Tya Lestiana, wawancara oleh Aqyllah Zalzah, Badan Pendapatan Daerah Kabupaten Kolaka, 13 Maret 2026

[36] Sitti Mashitah Tualeka dan Oyo Sunaryo Mukhlas, *"Hukum Kewarisan Di Indonesia"*, AL-AFKAR: *Journal for Islamic Studies,* Vol. 6 (3), (2023), Hal. 329.

[37] Hilma Syifa El Asith, Muhammad Rustamaji dan Jadmiko Anom Husnodo, *"Kebijakan Pajak Progresif Bea Perolehan Hak Tas Tanah Dan Bangunan (BPHTB) Dalam Perspektif Keadilan Pajak Dan Potensi Sengketa di Peradilan Pajak"*, Verstek Jurnal Hukum Acara, Vol. 13 (4), (2025), Hal. 764.

[38] Evie Rachmawati Nur Ariyanti dan Ita Nailul Mutiah, *"Hak Dan Kewajiban Wajib Pajak Serta Otoritas Perpajakan Setelah Keluarnya Undang-Undang Nomor 7 Tahun 2021 Tentang Harmonisasi Peraturan Perpajakan",* ADIL: Jurnal Hukum, Vol. 14 (1), (2023), Hal. 11.

substantive inheritance right. The tax obligation belongs to the sphere of public law, whereas the acquisition of inheritance rights belongs to the sphere of private law. Treating the fulfillment of the public-law obligation as if it determines the existence or validity of the private-law right may blur the distinction between the two legal regimes.

The problem is also relevant when inheritance is compared with the treatment of inheritance under Income Tax (*Pajak Penghasilan* or PPh). Article 6 letter d of Government Regulation Number 34 of 2016 excludes the transfer of rights over land and/or buildings due to inheritance from the imposition of Final Income Tax.[39] This regulatory treatment indicates that Indonesian tax law recognizes a distinction between inheritance and an ordinary commercial transfer that generates income. Inheritance is not treated as an ordinary commercial transaction for PPh purposes because the transfer occurs as a legal consequence of death rather than as a transaction producing income.[40]

The different treatment between PPh and BPHTB does not necessarily mean that one of the two tax regimes is legally invalid. Each tax has a different object, function, and legal basis. Nevertheless, the distinction demonstrates that inheritance possesses a special legal character that should be considered when designing and implementing tax mechanisms. The continued imposition of BPHTB on inheritance, while inheritance is excluded from Final Income Tax, therefore raises a policy and legal harmonization issue concerning the appropriate treatment of inheritance within the Indonesian tax system.[41]

The civil law consequence of the current mechanism is therefore not that the heir loses the inheritance right or that the right legally arises only after BPHTB payment. Rather, the consequence lies in the possibility that the **formal recognition**

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[39] Peraturan Bupati Kabupaten Kolaka Nomor 6 Tahun 2024 Tentang Ketentuan Umum dan Tata Cara Pemungutan Pajak Daerah Dan Retribusi Daerah.

[40] Tudi Iskandar, *"Korelasi pemegang Hak Atas Tanah Dan Pengenaan BPHTB dalam Proses Peralihan Hak Karena Pewarisan Di Kantor Pertanahan"* Jurnal Hukum Tora, Vol. 8 (3), (2024), Hal. 511.

[41] Agung Satryo Wibowo dkk, *"Tax Analysis In The Distribution Of Inheritance: A Study Of Regulation And Implementation In Indonesia",* Jurnal Dialektika: Jurnal Ilmu Sosial, Vol. 22 (3), (2024), hal. 373-374.

and administrative exercise of the right become delayed because of the tax requirement. Such a condition may create uncertainty for heirs, particularly where the heir does not have sufficient financial capacity to immediately fulfill the BPHTB obligation. The substantive right exists, but the administrative recognition of that right may be functionally constrained.[42]

This condition may also affect the legal position of inherited property. When the inherited land has not yet been registered in the heirs' names, the heirs may face difficulties in undertaking further legal acts concerning the property, including transactions or other forms of legal disposition. Consequently, the delay in registration caused by the BPHTB requirement may create a period in which the substantive right of the heirs exists, but its administrative and evidentiary position has not been fully established.

Therefore, the application of BPHTB to inheritance should not be interpreted as making BPHTB payment the source of the heir's right. The right arises from succession under Articles 830 and 833 of the Indonesian Civil Code, while BPHTB constitutes a statutory fiscal obligation arising from the acquisition of the right.[43] Maintaining this distinction is essential to ensure consistency between civil inheritance law and regional taxation law.

Based on the foregoing analysis, the treatment of inheritance as an object of BPHTB produces a civil law consequence in the form of tension between the automatic acquisition of inheritance rights and the administrative requirements associated with BPHTB payment. The problem becomes particularly apparent where registration of inherited property is practically dependent upon the prior settlement of BPHTB. In such circumstances, the registration that should function primarily as a means of administrative recognition may

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[42] Sigit Nur Rachmat, Setiawan Wicaksono dan Cyndiarnis Cahyaning Putri, *"Terutangnya Bea Perolehan Hak Atas Tanggungan pada Perjanjian Jual Beli Tanah dan Bangunan",* Notarius, Vol. 18 (2), (2025), Hal. 587.

[43] Umar Rojikin, Piqi Rizki Padhilah dan Nandang Najmudin*, "Tinjauan Yuridis Terhadap Implementasi Pajak Progresif Pada Sistem Perpajakan Di Indonesia",* Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance, Vol. 5 (2), (2025), Hal. 1256

functionally become a prerequisite for the effective recognition of the heir's right.

Accordingly, the implementation of BPHTB on inheritance requires a clearer distinction between three different legal moments: first, the moment when the inheritance right arises upon the death of the deceased; second, the moment when BPHTB becomes due under Article 49 letter c of Law Number 1 of 2022; and third, the administrative registration of the inherited right at the land office.[44] Clarifying these three moments would prevent the tax obligation from being interpreted as the source of the inheritance right and would strengthen legal certainty for heirs.

D. Conclusion

The application of the provisions on the imposition of BPHTB due to inheritance in Kolaka Regency normatively already has a clear legal basis through the Law on Fiscal Relations and Kolaka Regent Regulation Number 6 of 2024, so that it theoretically satisfies the principle of legal certainty. In practice, however, its implementation in the field still leaves problems unresolved, owing to the lack of uniformity as to when the tax becomes payable and the standard used for valuing the tax object. From the standpoint of justice, the imposition of BPHTB that equates inheritance with the acquisition of commercial rights such as sale and purchase also has not yet reflected substantive justice, since an heir acquires the right not through an economic transaction but through a family relationship with the testator, so that imposing the same burden is felt to be disproportionate.

Equating the treatment of BPHTB between inheritance and the acquisition of commercial rights also gives rise to fundamental civil law consequences, because an heir's right

[44] Khasanah, K., Marniati, F.S., & Chandra, T.Y. *"Perlindungan Hukum Terhadap Ahli Waris yang Tidak Diikutsertakan dalam Akta Pembagian Hak Bersama yang Dibuat oleh PPAT Atas Objek Tanah Warisan."* J-CEKI: Jurnal Cendekia Ilmiah, Vol. 5 (3), (2026, hal. 1787.

should arise automatically upon the testator's death under the saisine principle (Articles 830 and 833 of the KUH Perdata), yet its formal recognition is delayed because settlement of BPHTB is required beforehand, so that the registration of title transfer, which should be declaratory, functionally becomes constitutive. This condition disrupts the heir's right in rem, creates legal vulnerability over the estate, and produces an inconsistency with other tax instruments such as Income Tax, which in fact exempts inheritance from its imposition. Legislators and the Kolaka Regency Government should therefore provide clarity as to when BPHTB on inheritance becomes payable, establish a uniform standard for valuing the tax object, and separate the collection mechanism for inherited BPHTB from that for the acquisition of commercial rights, so as to better reflect justice and legal certainty for heirs.

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F. Competing Interest

The authors declare that there is no conflict of interest in the publication of this article.

G. Publishing Ethical and Originality Statement

All authors declare that this work is original and has never been published in any form or through any medium, nor is it currently under consideration for publication in any other journal. All sources cited in this work have been properly acknowledged in accordance with accepted academic citation standards.

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Burgerlijk Wetboek, Tentang Warisan

Peraturan Bupati Kabupaten Kolaka Nomor 6 Tahun 2024 Tentang Ketentuan Umum dan Tata Cara Pemungutan Pajak Daerah Dan Retribusi Daerah