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THREE REGIMES, ONE ROOF: AN INTEGRATED SUBSTANCE-TESTING FRAMEWORK FOR PBJT, FINAL INCOME TAX, AND VAT ON DIGITAL ACCOMMODATION PLATFORMS IN INDONESIA

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Abstract
Indonesian tax law assigns a single economic activity—providing the temporary use of a building—to three different regimes depending on its substance: the Specific Goods and Services Tax (PBJT) on hospitality services, a local government object; Final Income Tax (PPh Final) on land and/or building leasing, a central object; and Value-Added Tax (VAT) on the rental of taxable commercial space, also a central object. The boundaries between these regimes were designed to be mutually exclusive, yet digital accommodation platforms such as Airbnb, Traveloka, and Agoda generate hybrid arrangements that blur them, producing classification disputes, double taxation risk, and revenue leakage between central and local governments. Using a normative-juridical method grounded in legal certainty theory, the Stufenbau doctrine of normative hierarchy, and the substance-over-form principle, this study pursues three objectives: (1) to analyze the normative criteria that legally separate the three regimes under Law No. 1 of 2022 (HKPD Law), Government Regulation No. 34 of 2017, and Minister of Finance Regulation No. 70/PMK.03/2022; (2) to evaluate the potential revenue shifting and leakage caused by boundary ambiguity on digital accommodation platforms through an illustrative fiscal scenario; and (3) to formulate an integrated Substance-Testing Guideline jointly usable by the Directorate General of Taxes (DGT) and Regional Revenue Agencies (Bapenda) to harmonize enforcement. The analysis finds that the governing statutes are substantively coherent and non-contradictory; the three decisive criteria are the nature of the service (passive space versus active hospitality), the duration of occupancy (the one-month threshold), and the identity of the counterparty and lessor status. Misclassification is therefore primarily an administrative rather than a legislative problem, and a shared substance test—operationalized as a weighted indicator checklist with a clear decision tree and a joint DGT–Bapenda data-matching protocol—offers a practical path to harmonized enforcement.
Keywords: Digital accommodation platforms; Fiscal decentralization; Revenue leakage; Substance over form

Abstrak
Hukum pajak Indonesia menempatkan satu aktivitas ekonomi—penyediaan penggunaan bangunan secara sementara—ke dalam tiga rezim yang berbeda bergantung pada substansinya: Pajak Barang dan Jasa Tertentu (PBJT) atas jasa perhotelan sebagai objek pajak daerah; Pajak Penghasilan Final (PPh Final) atas persewaan tanah dan/atau bangunan sebagai objek pusat; serta Pajak Pertambahan Nilai (PPN) atas persewaan ruang komersial kena pajak, yang juga merupakan objek pusat. Batas antarrezim ini dirancang saling meniadakan, namun platform akomodasi digital seperti Airbnb, Traveloka, dan Agoda memunculkan pengaturan hibrida yang mengaburkannya sehingga menimbulkan sengketa klasifikasi, risiko pajak berganda, dan kebocoran penerimaan antara pusat dan daerah. Dengan metode yuridis-normatif yang berlandaskan teori kepastian hukum, doktrin Stufenbau tentang hierarki norma, dan prinsip substance over form, penelitian ini memiliki tiga tujuan: (1) menganalisis kriteria normatif yang memisahkan ketiga rezim berdasarkan UU No. 1 Tahun 2022 (UU HKPD), PP No. 34 Tahun 2017, dan PMK No. 70/PMK.03/2022; (2) menilai potensi pergeseran dan kebocoran penerimaan akibat ambiguitas batas pada platform akomodasi digital melalui skenario fiskal ilustratif; serta (3) merumuskan Panduan Pengujian Substansi terintegrasi yang dapat digunakan bersama oleh DJP dan Bapenda untuk mengharmonisasi penegakan. Hasil analisis menunjukkan bahwa ketiga undang-undang yang mengatur secara substansi koheren dan tidak saling bertentangan; tiga kriteria penentu adalah sifat jasa (ruang pasif vs perhotelan aktif), durasi hunian (ambang satu bulan), dan identitas lawan transaksi serta status Pengusaha Kena Pajak. Kesalahan klasifikasi karenanya merupakan masalah administratif, bukan legislatif, dan pengujian substansi bersama menawarkan jalan praktis menuju penegakan yang harmonis.
Kata Kunci: Desentralisasi fiskal; Kebocoran pendapatan; Platform akomodasi digital; Substansi di atas bentuk

INTRODUCTION

Fiscal decentralization in Indonesia has progressively expanded the revenue responsibilities of subnational governments, which are expected to strengthen their locally generated revenue (Pendapatan Asli Daerah/PAD) and reduce dependence on intergovernmental transfers (Safitra et al., 2024). The clarity with which taxable objects are allocated between the central and local levels is a precondition for both administrative efficiency and voluntary compliance (Blöchliger & King, 2006). When that allocation is ambiguous, the same economic event can be claimed (or disclaimed) by more than one authority, producing either double taxation or a taxation gap.

Law No. 1 of 2022 on Central–Regional Government Fiscal Relations (the HKPD Law) restructured the local tax system by consolidating several previously separate levies, including the hotel tax, into the Specific Goods and Services Tax (Pajak Barang dan Jasa Tertentu/PBJT) (Afifulloh et al., 2023; Kalangi et al., 2025). A central design principle of the reform, expressed in Article 2(e), is national fiscal-policy synergy: the alignment of central and local objects to prevent double taxation on the same economic base. In principle, therefore, the boundaries between local and central objects are meant to be mutually exclusive.

In practice, however, a single underlying activity, making a building available for another party to occupy, can fall under three distinct regimes depending on its substance. If the activity constitutes hospitality services, it is a PBJT object taxed by the local government. If it constitutes passive leasing of land and/or buildings to a tenant, it is subject to Final Income Tax (PPh Final) under Government Regulation No. 34 of 2017, a central object. If it constitutes the rental of taxable commercial space by a Taxable Entrepreneur (Pengusaha Kena Pajak/PKP), it is subject to Value-Added Tax (VAT), again a central object. Each regime carries a different rate, a different collecting authority, and a different administrative mechanism.

The proliferation of platform-based short-term rentals through services such as Airbnb, Traveloka, and Agoda has sharpened the difficulty of drawing these lines (Kjærsgaard, 2019). Digital accommodation arrangements combine features of all three regimes: a residential unit (suggesting leasing), offered for short stays with hotel-like amenities (suggesting hospitality), sometimes bundled with serviced-office or event-space functions (suggesting commercial-space rental). The OECD (2019) documents that traditional tax categories, designed for clearly delineated business models, are increasingly inadequate for such hybrid activities, and Oei and Ring (2016) show that the rental-versus-service distinction has profound implications for which government may tax and at what rate.

Existing Indonesian scholarship has largely examined PAD performance determinants (Tan, 2020; Yulia, 2020), the revenue contribution of specific levies (Dewi et al., 2022; Ningsih et al., 2023), and the macro-level implications of the HKPD reform (Safitra et al., 2024; Sari et al., 2025; Wahyudi et al., 2025). A separate strand analyzes compliance determinants such as awareness, sanctions, and knowledge (Manrejo & Yulaeli, 2022; Syariati & Sari, 2025). Yet little attention has been directed to the normative interface among the three regimes simultaneously, to the revenue consequences of getting that interface wrong, or to a shared enforcement instrument that the Directorate General of Taxes (DGT) and Regional Revenue Agencies (Bapenda) could apply jointly.

This study addresses that gap. It pursues three objectives. First, it analyzes the normative criteria that legally separate hospitality services (a PBJT object), residential leasing (a Final Income Tax object), and taxable commercial-space rental (a VAT object) under current Indonesian tax law. Second, it evaluates the potential revenue shifting and leakage between central and local governments caused by boundary ambiguity on digital accommodation platforms, using an illustrative fiscal scenario. Third, it formulates an integrated Substance-Testing Guideline that DGT and Bapenda can use jointly to harmonize enforcement.

LITERATURE REVIEW

Legal Certainty Theory

Gustav Radbruch posits that legal certainty is one of the three fundamental values of law, alongside justice and purposiveness (Kristhy et al., 2024). In this framework, legal norms must be formulated clearly and consistently so that legal subjects can predict their rights and obligations and are protected from arbitrary actions. Julyano and Sulistyawan (2019) elaborate that the absence of legal certainty causes the legal system to malfunction, producing inconsistency in action that potentially leads to disorder. Applied to taxation, legal certainty requires that the type of tax, the taxable object, the tax rate, and the collecting authority for a given economic activity are unambiguously defined in legislation (Zaimah, 2016). When a single business activity could potentially be taxed by two different authorities without clear boundaries, the resulting condition undermines legal certainty in tax compliance.

Jan Michiel Otto complements Radbruch's theory by identifying five conditions under which legal certainty is achieved: (a) clear, consistent, and accessible legal rules; (b) consistent application by government institutions; (c) societal acceptance of the rules; (d) independent judicial application; and (e) enforceable judicial decisions (Soeroso, 2011). In the tax administration context, Otto's framework is particularly useful for evaluating whether two government agencies, such as DJP and Bapenda, apply overlapping regulations consistently, or whether their independent application creates contradictory outcomes for the same taxpayer.

Fuller (1969) further enriches this framework through his concept of the "inner morality of law" which identifies eight principles that legal norms must satisfy to function effectively, including clarity, consistency, non-contradiction, and congruence between official action and declared rules. In the tax law context, Fuller's criteria are directly applicable: when two government agencies, DJP and Bapenda, apply overlapping regulations to the same economic activity without mutual consistency, the resulting condition violates the inner morality of law. Additionally, Prebble and Prebble (2010) analyze the moral dimensions of tax avoidance through regulatory ambiguity, arguing that when legal norms fail to provide clear classification boundaries, taxpayers who exploit such ambiguities cannot be unequivocally characterized as non-compliant. This perspective is directly relevant to the present case, where the taxpayer's classification choice may reflect genuine interpretive uncertainty rather than deliberate avoidance.

Stufenbau Theory of Normative Hierarchy

Hans Kelsen's Stufenbau theory holds that the legal system forms a hierarchical structure in which lower-level norms derive their validity from higher-level norms and must not contradict them (Kelsen, 1967). In the Indonesian legal system, this principle is codified in Law No. 12 of 2011 on the Formation of Legislation, which establishes a hierarchy from the Constitution through laws, government regulations, and ministerial regulations. For tax law, this hierarchy is critical: the HKPD Law, the Income Tax Law, and the Harmonization of Tax Regulations Law (HPP Law) occupy the same hierarchical level, while Government Regulation No. 34 of 2017 and Ministry of Finance Regulation No. 70/PMK.03/2022 are subordinate regulations that must align with their respective parent statutes. The Stufenbau theory provides the analytical framework for determining whether an apparent conflict between central and local tax regulations represents a genuine normative contradiction or merely a complementary allocation of regulatory domains (Safitra & Arianty, 2023).

It is worth noting that the Stufenbau concept was originally co-developed by Adolf Julius Merkl, Kelsen's colleague at the University of Vienna, who elaborated the theory of hierarchical legal structure (Lehre vom Stufenbau der Rechtsordnung) as a central component of pure legal theory (Borowski, 2005). Merkl's contribution is particularly relevant for understanding how subordinate regulations, such as Government Regulation No. 34 of 2017 and PMK No. 70/PMK.03/2022, derive their validity from and must maintain coherence with their parent statutes. The hierarchical structure ensures that when the HKPD Law assigns hospitality services to local taxation, no subordinate regulation may contradict this assignment, a principle that becomes critical in resolving the classification dispute examined in this study.

Substance Over Form in Tax Law

The substance-over-form principle, well-established in accounting and legal theory, holds that the economic substance of a transaction should prevail over its legal or administrative form when determining its treatment. The Indonesian Financial Accounting Standards (PSAK), Paragraph 35 of the Framework for the Preparation and Presentation of Financial Statements, explicitly states that transactions and other events must be recorded and presented in accordance with their substance and economic reality, not merely their legal form (Ratnasari & Ardiati, 2016). In the tax context, this principle implies that tax obligations should be determined by the actual economic activity conducted by the taxpayer, regardless of how the activity is labeled in business licenses or administrative documents.

This principle is particularly relevant in the contemporary accommodation industry, where the proliferation of short-term rental platforms has created business models that may formally resemble property leasing while substantively providing hospitality services. The distinction is not merely semantic; it determines which level of government has the authority to tax the activity, at what rate, and through what mechanism. As Wahyudi et al. (2025) observe in the context of property taxation in South Tangerang, the accuracy and fairness of tax classification depend on aligning administrative records with economic reality, a challenge that becomes more acute as business models diversify.

The OECD (2019) report on the sharing and gig economy further substantiates this challenge, documenting how platform-based accommodation services create persistent classification difficulties for tax authorities worldwide. The report emphasizes that traditional tax categories, designed for clearly delineated business models, are increasingly inadequate for hybrid activities that combine elements of property leasing with active service provision. Cheng (2016) provides a comprehensive review of sharing economy research in the hospitality management literature, identifying the blurring boundary between property owners and service providers as a defining characteristic of platform-based accommodation. More specifically, Oei and Ring (2016) analyze the legal and tax challenges of classifying sharing economy activities, demonstrating that the distinction between rental income and service income has significant implications for which level of government may tax the activity and at what rate. Their analysis directly parallels the central question of this study: whether short-term accommodation with hospitality amenities constitutes property leasing or service provision for tax purposes.

Fiscal Decentralization, Tax-Object Delineation, and Revenue Leakage

The overlap of central and local tax bases is a recognized source of administrative confusion and revenue leakage, especially where local enforcement capacity is limited (Bird, 2010). Bahl and Bird (2018) argue that the design of local tax systems must include explicit mechanisms for resolving jurisdictional ambiguity to prevent both double taxation and taxation gaps. Brueckner (2000) shows that decentralization in developing countries is particularly vulnerable to classification error when local capacity is insufficient, and Saptono and Mahmud (2023) provide Indonesian evidence that intergovernmental fiscal coordination significantly shapes local tax performance.

Revenue leakage in this context is not only the failure to collect; it is also the misdirection of a correctly collected amount to the wrong level of government. When an activity that should yield PBJT to a municipality is instead reported as PPh Final or VAT to the centre, the aggregate revenue may appear intact at the national level while the local government bears the full loss, and vice versa. This distributional dimension, underexplored in the Indonesian literature, motivates the second objective of this study.

Self-Assessment and Information Asymmetry

Indonesia's central and local taxes rely on self-assessment, which entrusts taxpayers with registering, calculating, paying, and reporting their own obligations (Zaimah, 2016). Kirchler et al. (2008) explain compliance through the slippery-slope framework, in which trust in authorities and the power to enforce jointly determine outcomes; where both are weak, taxpayers may classify activities in revenue-minimizing ways, intentionally or not. Slemrod (2007) adds that when monitoring costs are high relative to revenue per taxpayer, authorities rationally underinvest in substance verification, allowing misclassification to persist.

Agency theory frames the authority, taxpayer relationship as one of divergent interests and asymmetric information (Jensen & Meckling, 1976), the taxpayer knows the substance of the operation, while DGT and Bapenda rely on disclosed data. Alm et al. (2010) show that targeted information assistance reduces unintentional misclassification, implying that the asymmetry is partly addressable through institutional design rather than enforcement alone, directly motivating the shared substance test proposed here.

METHODS

This study employs a normative-juridical (doctrinal) method supplemented by an illustrative fiscal analysis. The doctrinal component systematically interprets the governing instruments, the HKPD Law (Law No. 1 of 2022), the Regional Taxes and Charges Law (Law No. 28 of 2009, as relevant historically), the Income Tax Law and Government Regulation No. 34 of 2017, the HPP Law (Law No. 7 of 2021) and PMK No. 70/PMK.03/2022, and Law No. 12 of 2011 on the Formation of Legislation, through the analytical lenses of legal certainty theory, the Stufenbau doctrine, and the substance-over-form principle. The approach is appropriate because the research questions concern the meaning, hierarchy, and interaction of legal norms rather than the measurement of a population (Yin, 2018).

For the first objective, the study extracts from each instrument the operative criteria that define its taxable object and the exclusions that carve out the other regimes, then synthesizes them into a comparative matrix and a decision logic. For the second objective, the study constructs an illustrative scenario, a single digital-accommodation unit reported under each of the three regimes, to trace how classification choices shift revenue between central and local government and where leakage arises. The figures are deliberately stylized and are used to expose the direction and structure of revenue effects, not to estimate national magnitudes. For the third objective, the study translates the normative criteria into an operational Substance-Testing Guideline, including a weighted indicator checklist, a decision tree, and a joint DGT–Bapenda data-matching protocol.

The study is limited to the interpretation of current national instruments and a stylized fiscal illustration; it does not estimate aggregate leakage empirically and does not model taxpayer behavioural response. Its contribution is conceptual and prescriptive: a coherent reading of the normative boundaries and a deployable enforcement instrument.

RESULTS AND DISCUSSION

Normative Criteria Separating the Three Regimes

The first objective is to identify the criteria that, under current law, legally separate hospitality services (PBJT), residential leasing (PPh Final), and taxable commercial-space rental (VAT). Each regime is defined by an affirmative scope and, crucially, by exclusions that remove the other regimes from that scope. Read together, the instruments form a complementary rather than contradictory system.

PBJT on hospitality services (local object)

Article 1(47) of the HKPD Law defines hospitality services as the provision of accommodation that may include food and beverage services, entertainment, and supporting facilities. Article 53(1) enumerates the covered establishments like hotels, hostels, villas, guesthouses, motels, inns, tourism lodges, rest houses, private residences functioning as hotels, and glamping. Article 53(1)(j) is pivotal: private residences functioning as hotels include houses, apartments, and condominiums provided as accommodation comparable to hotel accommodation, but expressly exclude lease arrangements exceeding one month. PBJT on these services is a local object, with the rate set by regional regulation up to the statutory ceiling of ten percent.

Two operative criteria emerge. The qualifying substance is accommodation accompanied by services and amenities (not the building type or the licence label) and the temporal boundary is occupancy of one month or less. An activity satisfying both is a PBJT object regardless of how it is administratively styled.

Final Income Tax on land and/or building leasing (central object)

Government Regulation No. 34 of 2017 subjects income from leasing land and/or buildings to a ten-percent final income tax (Article 2(1)). Article 2(3) contains the decisive carve-out: income from accommodation services and their amenities (jasa pelayanan penginapan beserta akomodasinya) is excluded from this regime. The provision thus separates passive transfer of the right to use property (where the lessor merely makes space available) from the active provision of accommodation. Where a counterparty occupies space for a period exceeding the one-month threshold and receives no integrated hospitality services, the arrangement is residential or property leasing and falls within PPh Final, not PBJT.

VAT on taxable commercial-space rental (central object)

The rental of space is, in principle, a taxable service for VAT purposes when supplied by a Taxable Entrepreneur (PKP) (that is, a lessor whose turnover reaches the PKP threshold of IDR 4.8 billion. The statutory VAT rate under the HPP Law is twelve percent; however, for most non-luxury goods and services (including ordinary commercial-space rental) the effective rate remains eleven percent because Minister of Finance Regulation No. 131 of 2024 applies an 'other value' tax base equal to eleven-twelfths of the consideration. Two carve-outs are essential. First, PMK No. 70/PMK.03/2022, Article 6, removes room and space rental at hotels, hostels, villas, guesthouses, and private residences functioning as hotels (together with associated amenities such as air conditioning, laundry, internet, television, and room service) from the VAT base precisely because they are local (PBJT) objects. Second, residential leasing to a tenant is not, by itself, a VAT object when the lessor is not a PKP. VAT therefore attaches to commercial-space rental supplied by a PKP that is neither hospitality (carved out to PBJT) nor a non-PKP residential lease.

Synthesis from three decisive criteria

Synthesizing the affirmative scopes and the carve-outs, three criteria jointly determine the regime. The complementarity is exact that the HKPD Law assigns hospitality to local taxation, PP 34/2017 excludes accommodation services from PPh Final, and PMK 70/2022 excludes hospitality from VAT, so the same event is never simultaneously inside all three. Table 1 summarizes the boundaries.

Table 1. Normative boundaries among the three regimes

Criterion	PBJT – Hospitality (local object)	PPh Final – Leasing (central object)	VAT – Commercial space (central object)
Nature of service	Active accommodation with amenities	Passive transfer of use of property	Provision of taxable commercial space

Duration	One month or less (transient)	Exceeding one month (residential/long term)	Per contract; not duration-decisive
Counterparty / lessor status	Guest; operator provides services	Tenant; lessor may be non-PKP	Business tenant; lessor is a PKP
Collecting authority	Local government (Bapenda)	Central (DGT)	Central (DGT)
Headline rate	Up to 10% (PBJT)	10% final	12% statutory / 11% effective
Carve-out anchor	HKPD Law Art. 53(1)	PP 34/2017 Art. 2(3)	PMK 70/2022 Art. 6

Source: authors' synthesis of the HKPD Law, PP 34/2017, PMK 70/PMK.03/2022, and PMK 131/2024.

The decisive variables are therefore the nature of the service, the duration of occupancy, and the identity of the counterparty together with the lessor's PKP status. Through the lens of Otto's legal-certainty conditions and Fuller's requirement of congruence, the framework is coherent: identical economic activities should receive identical treatment, and the carve-outs ensure they do. The recurrent disputes therefore stem not from legislative contradiction but from the failure to test substance against these three criteria at the point of registration and supervision.

Revenue Shifting and Leakage on Digital Accommodation Platforms

The second objective evaluates how boundary ambiguity translates into revenue shifting between central and local government. Because the three regimes route revenue to different authorities at different rates, the classification chosen for a digital-accommodation unit determines not only how much tax is paid but who receives it. Two distinct pathologies arise, vertical misallocation (the right amount reaches the wrong level) and absolute leakage (a portion is collected by no one).

Consider a stylized unit on a digital platform generating IDR 600 million of gross annual receipts, with a local PBJT rate of ten percent. Table 2 traces the fiscal outcome under three classifications. The figures are illustrative and are intended to reveal direction and structure, not to estimate national magnitudes.

Table 2. Illustrative revenue outcome for one unit (gross receipts IDR 600m)

Classification of the unit	To local (PBJT)	To central	Comment
Correct: hospitality (PBJT 10%)	IDR 60.0m	–	Full local entitlement realized
Reported as leasing (PPh Final 10%)	IDR 0	IDR 60.0m	Vertical shift: local loses, central gains
Reported as commercial rental (VAT 11% eff.)	IDR 0	IDR 66.0m	Shift plus rate divergence; borne by consumer
Split arrangement (part PPh Final, part PBJT)	IDR ~30.0m	IDR ~30.0m	Eroded base on both sides; partial leakage

Source: authors' illustrative computation. Effective VAT of 11% reflects the 11/12 'other value' base under PMK 131/2024.

Three observations follow. First, the misclassification of hospitality as leasing is a pure vertical transfer: the national treasury is broadly indifferent because it collects the same IDR 60 million as PPh Final, but the municipality loses its entire entitlement. This is the leakage least likely to trigger central scrutiny and therefore the most persistent, the centre has weak incentive to police a boundary whose breach favours it. Second, classification as commercial-space rental introduces a rate divergence at the effective eleven-percent VAT the central take exceeds the local PBJT, while the economic burden shifts to the consumer rather than the operator, distorting price signals on the platform. Third, the split arrangement (observed in practice when operators pay PPh Final to the centre and PBJT to the municipality on overlapping bases) erodes both bases simultaneously, producing partial leakage on each side and the appearance of compliance to each authority in isolation.

The structural driver is informational. Under self-assessment, each authority processes the taxpayer's self-reported classification without cross-checking the other's records (Jensen & Meckling, 1976; Slemrod, 2007). DGT sees an income-tax or VAT filing; Bapenda sees, at most, a local registration; neither sees the platform listing that would reveal the true substance. The slippery-slope dynamic (Kirchler et al., 2008) then operates with low trust and low enforcement on the local side, where capacity is thinnest (Ginting & Tambunan, 2022). The result is a coordination failure with a distributive sign: leakage flows systematically away from the level of government least able to detect it.

Aggregated across the rapidly growing stock of platform listings, even a modest per-unit misallocation implies a material erosion of PAD precisely in the revenue category the HKPD Law intended to strengthen. The leakage is thus not a rounding error but a structural feature of an enforcement architecture in which the boundary is legally clear yet administratively unobserved.

An Integrated Substance-Testing Guideline for DGT and Bapenda

The third objective is to convert the normative criteria of Table 1 into a shared instrument that DGT and Bapenda can apply jointly. The guideline has three components: a weighted indicator checklist, a decision tree, and a data-matching protocol. Its purpose is to operationalize substance-over-form at the field level and to ensure that both authorities reach the same classification from the same evidence.

Component 1: weighted indicator checklist

Field officers score the activity against indicators grouped by the three decisive criteria. The presence of service indicators pushes toward PBJT; their absence, combined with occupancy exceeding one month, pushes toward PPh Final; a PKP lessor supplying non-hospitality space pushes toward VAT. Table 3 lists the core indicators and their direction.

Table 3. Core substance indicators and classification direction

Indicator observed	Points toward	Weight
Reception / 24-hour front desk; reservation system	PBJT (hospitality)	High
Daily housekeeping, F&B, recreation, room service	PBJT (hospitality)	High
Marketed for nightly/weekly stays on a platform	PBJT (hospitality)	High
Average occupancy one month or less	PBJT (hospitality)	High
Single tenant, occupancy exceeding one month, no services	PPh Final (leasing)	High
Lessor turnover ≥ IDR 4.8bn and registered as PKP	VAT (if not hospitality)	Medium
Space let for office/retail/event, not lodging	VAT (commercial space)	Medium
KBLI code or licence label only (no service evidence)	Not decisive	Ignore

Note: administrative labels (KBLI, NIB) are explicitly non-decisive; the NIB itself places data accuracy on the operator.

Component 2: decision tree

The indicators feed a sequential test applied in a fixed order so that DGT and Bapenda cannot diverge. Step 1: Service test, does the operator supply integrated accommodation services and amenities? If yes, and Step 2: Duration test confirms typical occupancy of one month or less, the activity is hospitality and PBJT applies; VAT and PPh Final are carved out by PMK 70/2022 Article 6 and PP 34/2017 Article 2(3) respectively. If the service test fails, Step 3: Counterparty and purpose test asks whether the space is let to a business tenant for commercial use by a PKP lessor; if yes, VAT applies; if the space is residential and occupancy exceeds one month with a non-PKP lessor, PPh Final applies. Each terminal node maps to exactly one regime, eliminating the split arrangement that produces partial leakage.

Component 3: joint DGT–Bapenda data-matching protocol

The checklist and decision tree resolve the substance question only if both authorities observe the same facts. The protocol therefore specifies three mechanisms. First, batch data exchange: simplify the existing cooperation agreement (PKS) among DGT, the Directorate General of Fiscal Balance (DJPK), and local governments to permit periodic bulk reconciliation of central filings (PPh Final, VAT) against local PBJT registrations, replacing case-by-case manual requests. Second, platform-sourced cross-referencing: incorporate public platform listings and OSS registrations under real-estate KBLI codes (e.g., 68110) as a risk trigger, flagging units that advertise nightly stays yet appear only in central records. Third, a single shared determination: where a flag arises, a joint determination applies the decision tree once, binding both authorities, so the taxpayer faces one classification rather than two inconsistent ones.

This design responds directly to the coordination failure identified under Objective 2. By making substance observable to both principals and by binding them to a common decision rule, the protocol converts the slippery-slope conditions of low trust and low enforcement into a higher-trust, higher-capacity equilibrium (Alm et al., 2010; Kirchler et al., 2008). It also operationalizes Article 2(e) of the HKPD Law (fiscal-policy synergy) at the level where it currently fails: the field.

Implementation and safeguards

Three safeguards make the guideline administrable. Risk-based prioritization concentrates scarce supervisory capacity on high-ambiguity units (platform listings registered under non-hospitality codes) rather than the entire taxpayer base (Afifulloh et al., 2023; Ginting & Tambunan, 2022; Larasati & Bernawati, 2020). A documented evidentiary trail (listing screenshots, amenity inventories, occupancy patterns) supports the determination and protects taxpayers from arbitrary reclassification, satisfying Otto’s certainty conditions. Finally, targeted education for the accommodation sector explains the three-regime boundary with concrete examples, reducing the genuine interpretive error that Prebble and Prebble (2010) argue should not be equated with avoidance.

CONCLUSION

This study examined the interface among three Indonesian tax regimes that can attach to a single act of making a building available: PBJT on hospitality services (local), Final Income Tax on land and building leasing (central), and VAT on taxable commercial-space rental (central). On the first objective, the analysis shows that the governing instruments are substantively coherent and non-contradictory. Three criteria legally separate the regimes, the nature of the service (active hospitality versus passive space), the duration of occupancy (the one-month threshold), and the identity of the counterparty together with the lessor’s PKP status, while reciprocal carve-outs in the HKPD Law, PP 34/2017, and PMK 70/2022 ensure no event falls within all three at once.

On the second objective, the illustrative analysis demonstrates that boundary ambiguity on digital accommodation platforms produces revenue shifting with a clear distributive sign. Misclassifying hospitality as leasing transfers revenue vertically from municipalities to the centre, which has weak incentive to police a boundary whose breach favours it; classification as commercial rental adds a rate divergence borne by consumers; and split arrangements erode both bases at once. The leakage is structural rather than incidental, flowing systematically toward the level of government least able to observe the underlying substance.

On the third objective, the study formulated an integrated Substance-Testing Guideline, a weighted indicator checklist, a fixed-order decision tree, and a joint DGT–Bapenda data-matching protocol, that operationalizes substance-over-form and binds both authorities to a single classification from shared evidence. The central implication is that Indonesia's legal framework for these boundaries is already adequate; the deficit is administrative. Harmonized enforcement, not legislative reform, is the route to protecting both central and local revenue integrity.

Several avenues remain. Future work could estimate aggregate leakage empirically from platform-listing data, pilot the guideline across multiple municipalities to test inter-rater consistency, and incorporate taxpayer perspectives on the perceived fairness of reclassification. Each would strengthen the move from a coherent normative map to a verified enforcement practice.

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