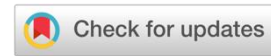




Research Article



Rethinking Criminal Liability of Beneficial Owners in Tax Crime Enforcement

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Abstract: The development of the global economy and the increasing complexity of corporate ownership structures have created significant challenges in enforcing tax crime regulations. Ownership arrangements involving multiple intermediary entities often enable beneficial owners to conceal their identities, raising questions regarding whether criminal liability can effectively be attributed to the beneficial owner. This study aims, first, to analyze the legal construction of criminal liability of beneficial owners in tax crimes in Indonesia. Second, it seeks to identify weaknesses in the enforcement of criminal liability against beneficial owners in tax-related offenses. Third, the study proposes a reconstructed legal policy model that positions the beneficial owner as a subject who can be held criminally liable. This research employs a normative legal research method with primary approaches consisting of statutory, conceptual, and comparative analyses. The sources of data consist of primary legal materials and secondary legal materials. First, the complexity of corporate ownership structures highlights the importance of the beneficial owner concept in identifying individuals who ultimately control and derive economic benefits from corporations, although Indonesian regulations have not yet explicitly linked this concept to criminal liability in tax law enforcement. Second, law enforcement efforts continue to encounter obstacles due to regulatory frameworks and evidentiary systems that remain largely formalistic and focus primarily on administrative subjects, thereby making it difficult to reach the substantive actors behind corporate structures. Third, a reconstruction of the legal framework is required through regulatory reform, enhanced transparency of ownership structures, and the integration of registration systems along with stronger institutional coordination to effectively hold beneficial owners accountable.

Keywords: Beneficial Owners; Criminal; Enforcement; Liability; Tax Crime;



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INTRODUCTION

Corporations operating within the global economy can significantly influence a nation's economic growth and national development.¹ Through investment initiatives, job creation, technological innovation, and the expansion of international trade, corporations contribute to the enhancement of economic productivity and national competitiveness on a global scale.² The rapid proliferation of corporations further reflects the highly integrated dynamics of the modern economy, wherein enterprises operate not only domestically but also transcend transnational borders. This condition

¹ Agung Susanto, Supanto Supanto, and Muhammad Rustamaji, "Criminal Liability of Beneficial Owners in Corporate Crime," in *Proceedings of the International Conference on Cultural Policy and Sustainable Development (ICPSD 2024)*, *Advances in Social Science, Education and Humanities Research* (Atlantis Press, 2024), 15–21, https://doi.org/10.2991/978-2-38476-315-3_4

² Juan Dempere et al., "The Impact of Innovation on Economic Growth, Foreign Direct Investment, and Self-Employment: A Global Perspective," *Economies* 11, no. 7 (July 5, 2023): 182, <https://doi.org/10.3390/economies11070182>



positions corporations as strategic economic actors within the developmental process, particularly in supporting industrialization, expanding market reach, and fortifying the national economic structure.³ Corresponding to these developments, the impact of a corporation's presence is heavily contingent upon its operational conduct. When operating ethically and responsibly, corporations can yield extensive societal benefits, including the advancement of economic welfare and social development. Conversely, in the absence of good faith and adequate regulatory oversight, corporations possess the potential to engage in unfair business practices or unlawful activities.⁴

From the perspective of corporate law, a corporation taking the form of a limited liability company constitutes a legal entity whose primary characteristic is the principle of limited liability, wherein shareholders do not bear personal responsibility for the corporation's obligations.⁵ While this principle affords legal protection to shareholders, in practice, the corporate structure is occasionally exploited to perpetrate various forms of legal irregularities. One such manifestation is the utilization of nominee agreements in the incorporation or management of a corporation. Within a nominee agreement, the subject matter pertains to the ownership of a specific asset or interest that is formally registered under another party's name, a practice commonly referred to as 'name borrowing'.⁶ Although nominee agreements are not explicitly governed by the Indonesian Civil Code, Article 1338 of the Code stipulates that every contract must be executed in good faith.⁷ Nonetheless, in practice, nominee agreements are frequently employed as an instrument for legal circumvention, primarily to evade restrictions or prohibitions mandated by statutory regulations.⁸

The utilization of such nominee agreements is typically associated with the presence of a party known as a beneficial owner. Beneficial ownership refers to the party that tangibly reaps the economic benefits of a business entity, despite not being officially listed within the corporate ownership structure. In other words, this party exercises control or derives profits from the corporation's activities without being registered as the formal owner.⁹ According to the Financial Action Task Force (FATF), the

³ Liam Keenan, Timothy Monteath, and Dariusz Wójcik, "Hungry for Power: Financialization and the Concentration of Corporate Control in the Global Food System," *Geoforum* 147 (December 2023): 103909, <https://doi.org/10.1016/j.geoforum.2023.103909>

⁴ Teuku Panca Adhyaputra, "Legal Accountability of Beneficial Owners in Tax Crimes: Theories of Identification, Strict Liability, and Vicarious Liability," *Pakistan Journal of Life and Social Sciences (PJLSS)* 22, no. 2 (2024): 21773–81, <https://doi.org/10.57239/pjlss-2024-22.2.001543>

⁵ Tomáš Peráček and Michal Kaššaj, "A Critical Analysis of the Rights and Obligations of the Manager of a Limited Liability Company: Managerial Legislative Basis," *Laws* 12, no. 3 (June 12, 2023): 56, <https://doi.org/10.3390/laws12030056>

⁶ Salsa Mita Kirani, Muryanto Lanontji, and Wahyudi Umar, "Legal Certainty of Land Ownership Rights By Foreign Nationals Through Nominee Agreements," *Law and Justice* 9, no. 1 (May 24, 2025): 218–29, <https://doi.org/10.23917/laj.v9i1.8693>

⁷ Dahris Siregar, "The Good Faith Principle and the Transformation of Contract Law in a Globalized Legal Order," *Journal of Court and Justice*, March 6, 2026, 50–62, <https://doi.org/10.56943/jcj.v5i1.942>

⁸ Ariawan Gunadi et al., "Is the Use of Nominees in Any Form Illegal?," *International Journal of Application on Social Science and Humanities* 1, no. 1 (February 20, 2023): 1259–66, <https://doi.org/10.24912/ijassh.v1i1.25804>

⁹ Tomasz Michał Matras, "Functioning of the Register of Beneficial Owners: Findings from Poland," *Journal of Money Laundering Control* 27, no. 5 (August 14, 2024): 932–43, <https://doi.org/10.1108/JMLC-09-2023-0149>



paramount element in defining a beneficial owner is the acknowledgement that beneficial ownership is not exclusively confined to legal ownership and control over the corporation. The focal point of the definition is the individual who, by nature and in reality, extracts advantages from the legal person on paper, encompassing those who possess ultimate control over the company's assets.¹⁰ Furthermore, the Organization for Economic Cooperation and Development (OECD) underscores in its corporate governance principles the necessity to define a beneficial owner as a natural person who ultimately owns or controls a legal person or legal arrangement. The OECD also advocates for ensuring the accurate disclosure of beneficial ownership information and the establishment of a legal framework that facilitates the exchange of such information among national authorities, both domestically and internationally.¹¹

The presence of a beneficial owner within a corporation is frequently exploited to obscure the origin of funds utilized in both the incorporation and operation of the enterprise. Through this mechanism, the party exercising actual control or deriving economic benefits from the company remains formally unrecorded within the ownership structure. This circumstance potentially engenders various forms of irregularities, as the identity of the true owner becomes exceedingly difficult for competent authorities to trace. Consequently, such practices create avenues for illicit activities, including tax evasion and the circumvention of tax obligations.¹² When a corporate ownership structure lacks transparency, the oversight of tax liabilities becomes increasingly complex, thereby enabling certain actors to manipulate financial reporting or conceal income sources. Ultimately, these practices not only cause financial detriment to the state through diminished tax revenues but also threaten to undermine the integrity and effectiveness of the taxation system as a whole.¹³

Law of the Republic of Indonesia Number 6 of 1983, having undergone multiple amendments, most recently through Law of the Republic of Indonesia Number 16 of 2009 concerning General Provisions and Tax Procedures, constitutes an instrument of positive law applicable in Indonesia.¹⁴ As an integral component of the national legal framework, the Tax Law possesses binding force and serves as the foundational basis for tax administration, enforced by both governmental and judicial authorities. The enactment of this legislation aims to establish legal certainty, govern taxation rights and obligations, and ensure the orderly, equitable, and effective execution of the tax

¹⁰ Paul Gilmour, Durgesh Pandey, and Doron Goldbarsht, "Registers of Beneficial Owners Based on Blockchain Technology: Implications for the Accounting Profession," *Technological Forecasting and Social Change* 214 (May 2025): 124051, <https://doi.org/10.1016/j.techfore.2025.124051>

¹¹ Bernhard Reinsberg and Jack Taggart, "How Does Earmarked Foreign Aid Affect Recipient-Country Ownership?," *Journal of International Development* 37, no. 3 (April 9, 2025): 773–88, <https://doi.org/10.1002/jid.3985>

¹² Gilmour, Pandey, and Goldbarsht, "Registers of Beneficial Owners Based on Blockchain Technology: Implications for the Accounting Profession." <https://doi.org/10.1016/j.techfore.2025.124051>

¹³ Christina M. Lewellen, "Tax Haven Incorporation and Financial Reporting Transparency," *Review of Accounting Studies* 28, no. 3 (September 27, 2023): 1811–55, <https://doi.org/10.1007/s11142-022-09676-2>

¹⁴ Budi Suhariyanto and Slamet Tri Wahyudi, "Corporate Responsibility Issues as a Criminal Act of Taxation in Indonesia," in *Proceedings of the International Conference on Law Studies (INCOLS 2022)* (Paris: Atlantis Press SARL, 2023), 11–22, https://doi.org/10.2991/978-2-494069-23-7_3



collection system to bolster state revenues.¹⁵ In its implementation, the stipulations within the Tax Law exhibit both a general and a specific binding nature. The general binding nature signifies that these provisions are applicable to all entities residing within the legal jurisdiction of Indonesia.¹⁶ Conversely, the specific binding nature pertains to the enforcement of particular provisions directed exclusively toward tax subjects and objects that satisfy the criteria mandated by statutory regulations.¹⁷ For instance, the obligation to remit income tax is imposed solely upon individuals or corporate entities that have fulfilled the requisite subjective and objective conditions, pertaining to either the nature of their occupation or the quantum of income generated. Consequently, this regulatory framework ensures that tax liabilities are levied proportionally, commensurate with the financial capacity and specific circumstances of each respective taxpayer.¹⁸

Should elements of a tax crime be present, even if perpetrated by the corporation itself, the application of the piercing the corporate veil doctrine legally justifies extending liability to other associated parties, such as directors or shareholders.¹⁹ Nevertheless, prevailing tax regulations lack explicit provisions regarding the criminal liability of beneficial owners, the individuals wielding actual control over the corporation, up to and including the authority to instruct the board of directors to commit tax offenses.²⁰ This regulatory void creates a systemic inequity and threatens to erode public confidence in the taxation system. Moreover, from the perspective of substantive justice, criminal law ought not to be confined to mere formalities; rather, it must pierce the veil of the legal entity to identify the true substantive perpetrators.²¹ This principle aligns with Thomas Aquinas's philosophical assertion that justice transcends mere adherence to written law, embodying instead the moral fulfilment of the rights and obligations of each party commensurate with the benefits they derive.²²

¹⁵ Amelia Cahyadini, Josep Irvan Gilang Hutagalung, and Zainal Muttaqin, "The Urgency of Reforming Indonesia's Tax Law in the Face of Economic Digitalization," *Cogent Social Sciences* 9, no. 2 (December 15, 2023), <https://doi.org/10.1080/23311886.2023.2285242>

¹⁶ Afifah Kusumadara, "Jurisdiction of Courts Chosen in the Parties' Choice of Court Agreements: An Unsettled Issue in Indonesian Private International Law and the Way-Out," *Journal of Private International Law* 18, no. 3 (September 2, 2022): 424–49, <https://doi.org/10.1080/17441048.2022.2148905>

¹⁷ Paul Daly, "How Binding Are Binding Guidelines? An Analytical Framework," *Canadian Public Administration* 66, no. 2 (June 10, 2023): 211–29, <https://doi.org/10.1111/capa.12519>

¹⁸ Hongsheng Fang, Yunqing Su, and Weijun Lu, "Tax Incentive and Corporate Financial Performance: Evidence from Income Tax Revenue Sharing Reform in China," *Journal of Asian Economics* 81 (August 2022): 101505, <https://doi.org/10.1016/j.asieco.2022.101505>

¹⁹ Kamal Jamal Alawamleh, Abeer Hassan Al-Qaisi, and Fathi Tawfiq Alfaouri, "Limited Liability Companies in Jordan: Another Story for Piercing the Corporate Veil," *Journal of Financial Crime* 29, no. 4 (September 30, 2022): 1341–55, <https://doi.org/10.1108/JFC-07-2021-0166>

²⁰ Pavel Kotlán et al., "Criminal Compliance Program as a Tool for Criminal Liability Exculpation of Legal Persons in the Czech Republic," *Laws* 12, no. 2 (February 23, 2023): 20, <https://doi.org/10.3390/laws12020020>

²¹ Roberta De Paolis, "Corruption, Sextortion, Gender-Based Violence: Open Challenges for the European Union in Harmonising Substantive Criminal Rules," *New Journal of European Criminal Law* 16, no. 1 (March 16, 2025): 3–30, <https://doi.org/10.1177/20322844241293634>

²² Francesco De Micco and Roberto Scendoni, "Three Different Currents of Thought to Conceive Justice: Legal, and Medical Ethics Reflections," *Philosophies* 9, no. 3 (April 30, 2024): 61, <https://doi.org/10.3390/philosophies9030061>



Consequently, these issues underscore the urgency of reconstructing the legal framework pertaining to the criminal liability of beneficial owners, a necessity further echoed by international recommendations.²³ The OECD, in its reports on Base Erosion and Profit Shifting (BEPS), highlights that the opacity surrounding beneficial ownership lies at the core of numerous cross-border tax avoidance schemes.²⁴ Similarly, the FATF urges jurisdictions to develop beneficial ownership disclosure systems that are fully integrated with their domestic tax and financial frameworks, thereby enabling the accurate identification of substantive actors.²⁵ This exigency has likewise been recognized by Indonesia, where the imperative to regulate beneficial ownership has become increasingly evident amidst heightened global scrutiny regarding the misuse of corporate entities for tax evasion and money laundering. A report from the Global Forum on Transparency and Exchange of Information for Tax Purposes demonstrates that jurisdictions with robust transparency in ownership information tend to exhibit superior rates of tax compliance.²⁶

In Indonesia, numerous cases have emerged as a consequence of these issues. *First*, the Supreme Court Cassation Decision of the Republic of Indonesia Number 5802 K/Pid.Sus/2024 outlines a tax evasion case committed by TB, the beneficial owner of PT Uniflora Prima (PT UP). TB employed various complex schemes to obscure the illicit origins of the tax crime proceeds, ranging from placing cash into the banking system and converting it into foreign currencies, to funnelling funds abroad and purchasing high-value assets. In addressing these cross-border fund transfers, tax authorities utilized the Mutual Legal Assistance (MLA) mechanism to collaborate with the Singaporean government in seizing TB's assets, which were allegedly concealed within that jurisdiction. Through this case, TB was proven guilty of evading taxes amounting to IDR 58,2 billion. These activities not only violate tax regulations but also expose the classic modus operandi of tax evasion perpetrated through shell companies and cross-border transfers. *Second*, as stipulated in the Medan High Court Decision Number 66/Pid.Sus/2018/PT.Mdn, the defendant, Tiandi Lukman (TL), was legally and conclusively proven guilty of committing criminal offenses in the field of taxation pursuant to Article 39, Paragraph 1, Letter c. TL acted as the beneficial owner of several companies he established, which issued tax invoices based on fictitious transactions. This scheme was orchestrated to illicitly profit from the sale of tax invoices containing fraudulent information. As a consequence of these actions, the total potential financial loss to state revenues amounted to IDR 40.673.717.921.

²³ "Embezzlement in the Private Sector: Legal Challenges and Regulatory Gaps in Corporate Governance," *IJCLS (Indonesian Journal of Criminal Law Studies)* 10, no. 2 (November 1, 2025), <https://doi.org/10.15294/ijcls.v10i2.24881>

²⁴ Tijmen Tuinma et al., "Effects of Corporate Transparency on Tax Avoidance: Evidence from Country-by-Country Reporting," *International Tax and Public Finance* 32, no. 5 (October 27, 2025): 1366–98, <https://doi.org/10.1007/s10797-025-09885-w>

²⁵ Leyla Ates et al., "Competition and Complementarity of EU and FATF Beneficial Ownership Transparency Orders," in *Redefining Global Governance* (Springer, Cham, 2025), 85–96, https://doi.org/10.1007/978-3-031-69793-7_7

²⁶ Daniel Reck, Joel Slemrod, and Trine Engh Vattø, "Public Disclosure of Tax Information: Compliance Tool or Social Network?," *Journal of Public Economics* 212 (August 2022): 104708, <https://doi.org/10.1016/j.jpubeco.2022.104708>



Beyond Indonesia, tax evasion practices involving beneficial owners have long constituted a global issue, occurring across various jurisdictions. One of the most notorious cases is the Panama Papers scandal, which came to light between 2016 and 2017. This scandal unveiled millions of documents illustrating how wealthy individuals, politicians, and business actors utilized offshore shell companies to conceal assets and evade tax obligations. The disclosure of this case triggered international scrutiny and compelled numerous countries to tighten regulations regarding corporate ownership transparency, particularly concerning the oversight of beneficial owners within legal entities. One such jurisdiction that has fortified its regulatory framework is Singapore. The state updated provisions within the Singapore Companies Act by mandating companies to maintain a register of registrable controllers (beneficial owners) and establishing an electronic registration system that records the shareholders and directors of private companies. This information is accessible to competent authorities to enhance transparency and prevent the misuse of legal entities. Furthermore, professional service providers, including corporate service firms, cooperatives, and banking financial institutions, are also obligated to retain and report beneficial ownership information. This oversight has even been extended to encompass Designated Non-Financial Businesses and Professions (DNFBPs) to ensure that all parties involved in the incorporation and management of companies adhere to the principles of ownership transparency. Observing the practices implemented across these various jurisdictions, Indonesia could fundamentally adopt analogous measures by fortifying its regulatory framework and oversight mechanisms concerning beneficial ownership. Consequently, corporate ownership transparency can be elevated, and the potential misuse of legal entities for tax avoidance or evasion can be minimized.²⁷

Fundamentally, Indonesia has established an administrative foundation regarding the disclosure of beneficial ownership through Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners in Limited Liability Companies. This regulation aims to enhance corporate ownership transparency by obligating companies to identify parties who tangibly exercise control or derive economic benefits from a business entity.²⁸ Furthermore, the Supreme Court of the Republic of Indonesia has promulgated Supreme Court Regulation Number 3 of 2025 concerning Guidelines for the Handling of Criminal Tax Offenses. This regulation expands the scope of legal subjects liable for criminal responsibility, encompassing functional managers, instructing parties, corporate controllers, and beneficial owners who factually govern corporate activities, even if they remain formally unrecorded within the company's organizational structure. Nevertheless, the existence of these two regulations has not been fully complemented by stringent provisions within statutory tax laws; consequently, the legal standing of beneficial owners as parties directly accountable in tax crimes remains explicitly unregulated within the national tax law framework. This condition engenders a normative vacuum that potentially impedes the effectiveness of tax law enforcement, particularly when

²⁷ Yogi Yasa Wedha et al., "Unraveling the Complex Policies Regulating Conflicts of Interest and Criminal Corruption," *Journal of Human Rights, Culture and Legal System* 5, no. 1 (March 17, 2025): 33–59, <https://doi.org/10.53955/jhcls.v5i1.486>

²⁸ Fan Xia et al., "Financial Constraints and Corporate Greenwashing Strategies in China," *Corporate Social Responsibility and Environmental Management* 30, no. 4 (July 22, 2023): 1770–81, <https://doi.org/10.1002/csr.2453>



the perpetrators who substantively reap economic benefits are concealed behind complex corporate structures.²⁹

These limitations engender a legal loophole that facilitates the misuse of corporate entities to conceal the identities of the true owners, while simultaneously deflecting liability onto parties who are merely registered formally.³⁰ A further consequence of this predicament is the diminished effectiveness of state tax revenues; when the actual beneficial owners evade accountability, the deterrent effect against tax offenses is significantly undermined.³¹ Moreover, tax authorities confront a complex burden of proof, as the nexus between formal actors and substantive perpetrators is frequently obscured behind multiple layers of legal entities, shell companies, and cross-holding structures.³² Under such circumstances, the taxation system risks forfeiting its equitable function, failing to reach the parties who tangibly derive economic benefits from corporate activities. Consequently, it is imperative to fortify the legal framework, transcending mere administrative measures to provide a more robust basis for law enforcement against beneficial owners implicated in the breach of tax obligations.³³

Various scholars have conducted research on beneficial ownership; for instance, a study by Teuku Panca Adhyaputra et al. (2024) posits that the legal framework addressing beneficial ownership in tax crimes must emphasize compliance and accountability aspects.³⁴ Furthermore, research by I Gede Eka Sumahendra et al. (2024) highlights an existing legal vacuum concerning beneficial owners within corporations implicated in corporate crimes, such as money laundering.³⁵ A study by Victoria Tabita Yang Mulia Lamada (2024) highlights that beneficial owners, unlike registered shareholders, hold significant economic interests in a company while their identities may not necessarily be disclosed to the public.³⁶ Research conducted by Achmad Khozin Baharuddin et al. (2023) emphasizes that the concept of Beneficial Ownership

²⁹ Markus Kärner, "Interplay between European Union Criminal Law and Administrative Sanctions: Constituent Elements of Transposing Punitive Administrative Sanctions into National Law," *New Journal of European Criminal Law* 13, no. 1 (March 8, 2022): 42–68, <https://doi.org/10.1177/20322844221085918>

³⁰ Leyla Ates et al., "The Transnational Legal Ordering of Beneficial Ownership Registration," *Transnational Legal Theory* 16, no. 3 (July 3, 2025): 451–76, <https://doi.org/10.1080/20414005.2025.2471184>

³¹ Arshad Hasan, Naeem Sheikh, and Muhammad Bilal Farooq, "Exploring Stakeholder Perceptions of Tax Reform Failures and Their Proposed Solutions: A Developing Country Perspective," *Meditari Accountancy Research* 32, no. 3 (April 25, 2024): 721–55, <https://doi.org/10.1108/MEDAR-03-2023-1961>

³² George Gryllos, "Intellectual Property and Competition: State of the Law on the Relationship between Two Institutions in the Service of Welfare," *SSRN Electronic Journal*, 2022, <https://doi.org/10.2139/ssrn.4095409>

³³ Martin Zagler, "Foreign Direct Investment, Legal Uncertainty and Corporate Income Taxation," *International Economics* 173 (May 2023): 19–28, <https://doi.org/10.1016/j.inteco.2022.11.005>

³⁴ Adhyaputra, "Legal Accountability of Beneficial Owners in Tax Crimes: Theories of Identification, Strict Liability, and Vicarious Liability." <https://doi.org/10.57239/PJLSS-2024-22.2.001543>

³⁵ I Gede Eka Sumahendra, M. Arief Amrullah, and Fanny Tanuwijaya, "The Urgency of Criminal Liability for Beneficial Owners in Corporations Based on Presidential Regulation No. 13 of 2018," *Unes Law Review* 6, no. 3 (2024): 7983–90, <https://doi.org/10.31933/unesrev.v6i3>

³⁶ Victoria Tabita Majesty Lamada, "Application of Sanctions for Violations of Mandatory Reporting of Beneficial Owners in Limited Liability Companies," *Jurnal Hukum Prasada* 11, no. 2 (October 1, 2024): 119–24, <https://doi.org/10.22225/jhp.11.2.2024.119-124>



(BO) has the potential to be misused in money laundering activities through nominee arrangements, which obscure the identity of the true owner. Such practices are carried out by placing illicit assets in the form of share ownership within a corporation, thereby allowing the corporation to function as a vehicle for committing criminal acts.³⁷ Furthermore, a study by Tomasz Michał Matras (2024) indicates that ambiguity in the definition of beneficial ownership creates several challenges for reporting entities, including companies, foundations, and associations. In addition, much of the information submitted to the registry is questioned by obligated entities. The lack of adequate personal data protection also poses a significant concern. Consequently, these issues diminish the effectiveness of the registry as a tool for mitigating the risks of money laundering.³⁸

However, a clear gap exists in the existing body of research on beneficial ownership. Most studies primarily examine issues related to beneficial ownership in the context of money laundering offenses, while limited attention has been given to the legal liability of beneficial owners in corporate tax crimes. Therefore, this study seeks to fill this gap by proposing a renewed legal policy framework concerning the accountability of beneficial owners in tax-related offenses. The urgency of this research lies in three major threats arising from such practices. *First*, there is a threat to state revenue, as tax avoidance and tax evasion conducted through opaque ownership structures can significantly reduce potential tax income. *Second*, there is a threat to fairness within the taxation system, since legal enforcement often targets only the formal actors within corporations, while the individuals who actually control the corporation and obtain the economic benefits frequently remain beyond the reach of the law. *Third*, there is a threat to the effectiveness of law enforcement, as the use of shell companies and nominee arrangements complicates the efforts of authorities to identify the substantive actors behind corporate activities. Considering these issues, this research introduces scientific novelty through three main contributions. *First*, it analyses the legal construction of criminal liability of beneficial owners in corporate tax crimes in Indonesia. *Second*, it identifies weaknesses in the existing legal framework governing the accountability of beneficial owners in tax crime enforcement. *Third*, it formulates a model for reconstructing legal policy that positions the beneficial owner as a subject who can be held criminally liable. Accordingly, this study seeks to address three principal research questions, *first*, how the current legal construction of criminal liability for beneficial owners in tax crimes is structured in Indonesia; *second*, what weaknesses exist within the current legal system; and *third*, what model of legal policy reconstruction would be most appropriate to strengthen the criminal liability of beneficial owners in tax crime enforcement.

³⁷ Achmad Khozin Baharuddin and Adhitya Widya Kartika, "Criminal Accountability for Beneficial Ownership of Corporations in The Crime of Money Laundering in Indonesia," *Jurnal Al-Dustur* 6, no. 1 (2023), <https://doi.org/https://doi.org/10.30863/aldustur.v6i1.468>

³⁸ Matras, "Functioning of the Register of Beneficial Owners: Findings from Poland."



METHOD

This study employs normative legal research using statutory, conceptual, and comparative approaches.³⁹ The statutory approach is applied to analyze regulations governing the criminal liability of beneficial owners as well as relevant tax regulations. This approach aims to examine and assess whether the existing legal framework is sufficiently effective in its implementation. The conceptual approach is used to examine legal doctrines and theoretical perspectives to reassess the concept of beneficial owner liability. In this context, the analysis is conducted through the theoretical framework of criminal liability to evaluate how the concept of beneficial ownership can be positioned within the broader structure of legal accountability. In addition, this study adopts a comparative approach by examining how Singapore responds to the increasing number of cases involving beneficial owners within corporate structures, particularly those that have implications for tax-related crimes. Through this comparison, the research seeks to identify relevant legal practices and policy approaches that may provide insights for improving the Indonesian legal framework. The data sources consist of primary legal materials, including national legislation and relevant international conventions or regulations. In addition, secondary legal materials are used, such as scholarly journal articles, academic books, and previous research findings that support and enrich the analysis.⁴⁰

RESULT AND DISCUSSION

Constructing Criminal Liability Frameworks for Beneficial Owners in Tax Crime Regulations

The evolution of modern business practices demonstrates that corporate ownership structures have grown increasingly complex, frequently involving various intermediary entities that render the identification of the true owner exceedingly difficult.⁴¹ Economic globalization and advancements in financial systems enable enterprises to be held through layered ownership networks, encompassing multiple legal entities across diverse jurisdictions. This circumstance is frequently exploited to obscure the parties who genuinely exercise control and derive economic benefits from a corporation. In this context, the concept of the beneficial owner becomes paramount to ensure that individuals who tangibly possess control and extract economic benefits from a corporation can be unambiguously identified. Nevertheless, within the tax law systems of numerous jurisdictions, including Indonesia, the construction of criminal liability predominantly remains focused on the corporate entity or its formal executives. Consequently, the individuals residing behind these

³⁹ Anila Robbani, Raffy Arnanda Faturrohman, and Ahmad Hananul Amin, "Optimization of Income Tax Revenue in Land and Building Rights Transfer Transactions," *Journal of Justice Dialectical* 2, no. 1 (June 24, 2024): 28–42, <https://doi.org/10.70720/jjd.v2i2.38>

⁴⁰ Abdul Kamil Razak, Aloysius Wisnubroto, and Tajudeen Sanni, "Legal Reform in the Enforcement of Illegal Fishing Crimes," *Journal of Justice Dialectical* 3, no. 2 (August 18, 2025): 155–75, <https://doi.org/10.70720/jjd.v3i2.97>

⁴¹ Maria Jofre, Antonio Bosisio, and Michele Riccardi, "Financial Crime Risk Assessment: Machine Learning Insights into Ownership Structures in Secrecy Firms," *Global Crime* 25, no. 3–4 (October 20, 2024): 242–67, <https://doi.org/10.1080/17440572.2024.2402848>



ownership structures are not always reachable by mechanisms of criminal accountability.⁴²

This condition indicates a necessity to clarify the concept of the beneficial owner within the national regulatory framework. Within Indonesian positive law, the definition of a beneficial owner is stipulated in Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations for the Prevention and Eradication of Money Laundering and Terrorism Financing Offenses. Pursuant to Article 1, paragraph (2) of the said regulation, a beneficial owner is defined as an individual who possesses the capacity to control the corporation, is the ultimate owner of the corporate funds or shares and holds specific authorities within the corporate structure. Such authorities encompass the capability to appoint or dismiss the board of directors, the board of commissioners, executives, patrons, or supervisors within a corporation. Furthermore, the beneficial owner possesses the capacity to control corporate policies and is entitled to receive benefits from corporate activities, either directly or indirectly. Consequently, this definition asserts that a beneficial owner is not invariably identical to the parties formally registered as shareholders or corporate executives.⁴³

More detailed provisions regarding the criteria for a beneficial owner are also found in Article 4, paragraph (1) of Presidential Regulation Number 13 of 2018, which regulates the parameters of beneficial ownership within Limited Liability Companies.⁴⁴ This provision stipulates that an individual may be categorized as a beneficial owner if they hold more than twenty-five percent of the shares as specified in the articles of association, possess more than twenty-five percent of the voting rights within the company, or receive more than twenty-five percent of the annual corporate profits. Furthermore, an individual may also be classified as a beneficial owner if they hold the authority to appoint or dismiss members of the board of directors and the board of commissioners, possess the capability to control the company without requiring consent from other parties, or are the actual ultimate owner of the funds utilized for majority share ownership within the enterprise. These provisions demonstrate that the identification of a beneficial owner is not solely predicated on formal share ownership but concurrently considers the elements of control and the extraction of economic benefits from the corporation.⁴⁵ Pursuant to these stipulations, a beneficial owner may be directly recorded in the corporate structure via the articles of association; conversely, they may hold no formal position within the company's organizational framework, being connected merely through indirect ownership or

⁴² Nils Brunsson, Ingrid Gustafsson Nordin, and Kristina Tamm Hallström, "Un-Responsible' Organization: How More Organization Produces Less Responsibility," *Organization Theory* 3, no. 4 (October 9, 2022), <https://doi.org/10.1177/26317877221131582>

⁴³ Daniel Zigo and Filip Vincent, "'Beneficial Owners' Policy: Comparison of Its Efficacy in the West with Prospects for Curbing Corruption in China," *DANUBE* 12, no. 4 (December 1, 2021): 273–92, <https://doi.org/10.2478/danb-2021-0018>

⁴⁴ Livia Ventura, "Philanthropy and the For-Profit Corporation: The Benefit Corporation as the New Form of Firm Altruism," *European Business Organization Law Review* 23, no. 3 (September 11, 2022): 603–32, <https://doi.org/10.1007/s40804-021-00227-x>

⁴⁵ Xianna Hong et al., "How Does Command-and-Control Environmental Regulation Impact Firm Value? A Study Based on ESG Perspective," *Environment, Development and Sustainability* 27, no. 5 (January 11, 2024): 11477–508, <https://doi.org/10.1007/s10668-023-04366-8>



specific affiliations. This indicates that the position of a beneficial owner within a corporation is not invariably structural; rather, they may operate behind the corporate facade through control mechanisms that are not consistently visible administratively. Therefore, the regulations concerning beneficial ownership, as elucidated by Presidential Regulation Number 13 of 2018, furnish vital parameters for identifying the parties who genuinely exercise control over a corporation.⁴⁶

Furthermore, the regulatory provisions concerning beneficial ownership also introduce several crucial indicators for identifying the presence of a beneficial owner within a corporation.⁴⁷ The first indicator is ultimate power, denoting the party that wields supreme authority in determining the company's strategic policies and acts as the primary beneficiary of its activities. In this context, a beneficial owner is not merely the entity formally registered as the corporate owner, but rather the individual who tangibly orchestrates the corporation's strategic decision-making.⁴⁸ The second indicator is economic benefit, which refers to the party directly extracting economic advantages from the company's operations, whether through share ownership, profit distribution, or access to the corporate cash flow.⁴⁹ The third indicator is control, signifying an individual's capacity to influence or govern the operations of a corporation, either through formal authority or via specific mechanisms of influence that empower said individual to dictate the trajectory of corporate policies.⁵⁰

Equipped with these parameters, the concept of beneficial ownership within the Indonesian regulatory framework has fundamentally established a preliminary foundation for identifying individuals who maintain a substantive nexus with a corporation.⁵¹ Nevertheless, these provisions predominantly emphasize the facets of ownership transparency and the identification of parties extracting economic benefits from the enterprise. In the praxis of law enforcement, particularly within the context of criminal tax offenses, these regulations have yet to be comprehensively integrated with the mechanisms of criminal liability. Consequently, even if a beneficial owner can be administratively identified, there frequently lacks a definitive legal basis to

⁴⁶ Stuart S. Yeh, "The Anticorruption Protocol to the United Nations Convention against Corruption Beneficial Owner Rule," *Laws* 12, no. 6 (October 24, 2023): 86, <https://doi.org/10.3390/laws12060086>

⁴⁷ Svitlana Levytska et al., "A Risk-Oriented Approach in the System of Internal Auditing of the Subjects of Financial Monitoring," *International Journal of Applied Economics, Finance and Accounting* 14, no. 2 (November 22, 2022): 194–206, <https://doi.org/10.33094/ijaefa.v14i2.715>

⁴⁸ Yujin Jeong and Jordan I. Siegel, "Political Competition and the Rechanneling of Corporate Bribery into Politically Connected Charity Donations: Evidence from South Korea," *Strategic Management Journal* 46, no. 1 (January 7, 2025): 177–208, <https://doi.org/10.1002/smj.3640>

⁴⁹ Rongda Chen et al., "Navigating Uncertainty: The Impact of Economic Policy on Corporate Data Asset Allocation," *International Review of Economics & Finance* 97 (January 2025): 103783, <https://doi.org/10.1016/j.iref.2024.103783>

⁵⁰ Wenlong Li and Jiahong Chen, "From Brussels Effect to Gravity Assists: Understanding the Evolution of the GDPR-Inspired Personal Information Protection Law in China," *Computer Law & Security Review* 54 (September 2024): 105994, <https://doi.org/10.1016/j.clsr.2024.105994>

⁵¹ Rianda Dirkareshza, Muhammad Fauzan, and Samal Kaliyeva Sultanovna, "Optimization of Legal Instruments for Beneficial Ownership Identification and Reporting in Indonesian Cooperative Sector," *Jurnal Hukum Bisnis Bonum Commune* 9, no. 1 (2026), <https://doi.org/https://doi.org/10.30996/jhbhc.v9i1.132196>



designate them as subjects liable for criminal accountability when the corporation perpetrates tax violations.⁵²

From the perspective of criminal law theory, criminal liability fundamentally requires a nexus between an unlawful act and a perpetrator possessing the legal capacity to be held accountable.⁵³ The theory of criminal liability emphasizes that an individual can be held accountable provided there is an element of fault (*mens rea*) and involvement in the unlawful act.⁵⁴ In the corporate context, the evolution of corporate criminal liability theories has introduced various approaches, such as identification theory, vicarious liability, and the doctrine of piercing the corporate veil. Identification theory posits that the actions of an individual holding a controlling position within a corporation can be attributed as the acts of the corporation itself.⁵⁵ Meanwhile, vicarious liability permits the imposition of accountability upon a party that maintains a controlling relationship or responsibility over the actions of another. Furthermore, the doctrine of piercing the corporate veil provides a basis for the courts to disregard the corporate separateness between the entity and the individual if the corporate structure is utilized as a vehicle to conceal the principal perpetrator of a crime.⁵⁶

When these theories are juxtaposed with the concept of the beneficial owner, the individual who wields effective control and derives economic benefits from corporate activities fundamentally maintains a substantive nexus with the actions of said corporation.⁵⁷ In other words, a beneficial owner serves not merely as the party extracting profits from enterprise operations, but also potentially as the entity dictating the company's strategic policies, including those pertaining to the management of tax obligations.⁵⁸ Therefore, from a theoretical standpoint, there exists a sufficiently robust basis to position the beneficial owner as a party liable for criminal accountability, provided their involvement in the tax crimes perpetrated by the corporation is proven. Consequently, an analysis predicated on the theory of criminal liability demonstrates that the presence of a beneficial owner within a corporate structure cannot be divorced from the potential legal liabilities inherent in the enterprise's activities. Nevertheless, within the prevailing regulatory praxis, the

⁵² Mubashir Ali, "The Ownership Rule: A Gateway for Financial Crimes," 2025, <https://doi.org/10.2139/ssrn.5734822>

⁵³ Tova Bennet, "An Integrated Model for Criminal Responsibility in Action: How Swedish Criminal Law Operates without an Insanity Defence," *Criminal Law Forum* 35, no. 3 (September 8, 2024): 255–87, <https://doi.org/10.1007/s10609-024-09484-0>

⁵⁴ Syafah Diyana Jauhari et al., "Criminal Liability for Murder of Individuals with Schizophrenia," *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam* 18, no. 1 (July 27, 2025): 121–36, <https://doi.org/10.24042/ijpmi.v18i1.27400>

⁵⁵ Xue Feng, "The Extension of Vicarious Liability in Corporate Groups," *Journal of Corporate Law Studies* 24, no. 1 (January 2, 2024): 169–98, <https://doi.org/10.1080/14735970.2024.2376278>

⁵⁶ Ben Chester Cheong, "Avatars in the Metaverse: Potential Legal Issues and Remedies," *International Cybersecurity Law Review* 3, no. 2 (December 7, 2022): 467–94, <https://doi.org/10.1365/s43439-022-00056-9>

⁵⁷ Muhammed Zakir Hossain, Latul Hasan, and Mohammad Hasibul Hasan, "Corporate Governance as a Global Phenomenon: Evolution, Theoretical Foundations, and Practical Implications," *Journal of Financial Risk Management* 13, no. 02 (2024): 342–75, <https://doi.org/10.4236/jfrm.2024.132017>

⁵⁸ Pasquale Lucio Scandizzo and Odin K. Knudsen, "The New Normalcy and the Pandemic Threat: A Real Option Approach," *Journal of Risk and Financial Management* 17, no. 2 (February 12, 2024): 72, <https://doi.org/10.3390/jrfm17020072>



correlation between the concept of beneficial ownership and the mechanism of criminal liability remains inadequately articulated.⁵⁹

Challenges in Law Enforcement against Beneficial Owners in Tax Crimes

Law enforcement against beneficial owners in tax crimes in Indonesia continues to confront various structural and conceptual challenges.⁶⁰ The criminal tax law system is fundamentally constructed upon a formal accountability paradigm, namely the determination of criminal legal subjects predicated on administrative positions recorded within corporate documents.⁶¹ In practice, the individuals liable for criminal accountability are typically those officially registered as directors, commissioners, or corporate executives. This approach has yet to fully accommodate the reality of economic control within modern corporations, wherein the parties who genuinely dictate strategic decisions and derive economic benefits are not invariably listed within the formal corporate structure. Consequently, the legal system tends to ensnare administrative personnel, while the substantive actors functioning as beneficial owners frequently remain beyond the reach of law enforcement.⁶²

First, this deficiency is manifested in the limited scope of prevailing tax regulations. The stipulations within Articles 38 and 39 of the Law on General Provisions and Tax Procedures merely employ the phrase 'every person' as the subject of criminal tax offenses, lacking any elucidation regarding the categories of parties who exercise control or derive economic benefits from a business entity.⁶³ Such a generalized normative formulation engenders difficulties in the praxis of law enforcement, particularly when corporate structures incorporate nominee directors, intermediary shareholders, or shell companies.⁶⁴ In numerous instances, tax authorities discover that directors or managers registered in corporate documents merely function as formal representatives, whereas strategic decision-making and the appropriation of profits are executed by extraneous parties unrecorded within the company's organizational framework. This predicament creates an inequity in justice, as the individuals who substantively exert control and extract profits remain immune to criminal prosecution, while administrative personnel are compelled to bear the legal ramifications.⁶⁵

⁵⁹ Susanto, Supanto, and Rustamaji, "Criminal Liability of Beneficial Owners in Corporate Crime."

⁶⁰ Dwi Nurferiyanto and Yoshi Takahashi, "Combating Tax Crimes in Indonesia: Tackling the Issue Head-On," *Humanities and Social Sciences Communications* 11, no. 1 (November 15, 2024): 1556, <https://doi.org/10.1057/s41599-024-04075-1>

⁶¹ Reda Manthovani et al., "A Deconstruction of Corporate Responsibility in Criminal Law," *Journal of Justice Dialectical* 3, no. 1 (May 30, 2025): 1–26, <https://doi.org/10.70720/jjd.v3i1.64>

⁶² Irene Farah, "<sc>THE LEGITIMACY TRAP</Sc> : Street Vending Heterogeneity and Selective Enforcement in San Francisco," *International Journal of Urban and Regional Research*, January 5, 2026, <https://doi.org/10.1111/1468-2427.70052>

⁶³ Rico Septian Noor, "The Process of Tax Criminal Actions in the Semarang State Court," in *Proceedings of the 5th Legal International Conference and Studies (LICS 2022)* (Atlantis Press, 2023), 321–30, https://doi.org/10.2991/978-2-38476-074-9_38

⁶⁴ Li Chen and Lila Ke, "Unlocking Corporate Governance: Enhancing the Board of Directors in Chinese State-Owned Holding Companies Under the PRC Company Law 2023," *European Business Organization Law Review*, December 2, 2025, <https://doi.org/10.1007/s40804-025-00357-6>

⁶⁵ Yongwei Ye et al., "Tax Authority Monitoring and Corporate Information Disclosure Quality in China," *International Review of Financial Analysis* 90 (November 2023): 102872, <https://doi.org/10.1016/j.irfa.2023.102872>



The absence of norms explicitly linking factual control to criminal liability is also closely intertwined with the evidentiary system in tax cases. In practice, the evidentiary process tends to remain formalistic, emphasizing official documents and the administrative status recorded within the corporate structure. Law enforcement authorities frequently utilize the deed of incorporation, articles of association, or other administrative documents as the primary basis for determining criminal legal subjects. Such an approach results in the substantive aspects of economic transactions, such as who controls the flow of funds, who dictates the company's tax policies, and who extracts the economic benefits, not consistently being the primary focus of the evidentiary process. Consequently, the existence of the actual beneficial owner remains difficult to identify legally. Under these circumstances, tax law in its current form has yet to fully penetrate the corporate veil to uncover the actors truly responsible for tax offenses.⁶⁶

Second, the deficiencies in identifying beneficial owners are also evident within regulatory frameworks outside of tax legislation, specifically in Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations. This regulation fundamentally introduced the concept of beneficial ownership as part of an effort to enhance corporate transparency and prevent financial crimes. However, its implementation still encounters various obstacles in the process of identifying the actual beneficial owners. Certain criteria within this regulation are relatively easy to detect as they are quantitative in nature and can be observed directly through corporate documents, such as share ownership exceeding 25 percent, voting rights exceeding 25 percent, or the receipt of corporate dividends in specific percentages. These criteria are generally stipulated within the articles of association or ownership documents, rendering them relatively straightforward for competent authorities to verify.⁶⁷

Conversely, there exist several criteria that are significantly more arduous to identify, as they pertain to indirect control or power dynamics that are not invariably reflected in a company's formal documentation. Examples include the authority to appoint or dismiss members of the board of directors and the board of commissioners, the capacity to influence or govern corporate policies without necessitating authorization from other parties, and the status as the actual provider of funds utilized for share ownership. Such criteria are frequently concealed behind intricate ownership structures, such as the utilization of intermediary companies, nominee shareholders, or informal, unwritten agreements that remain unrecorded in official corporate documents. Furthermore, the aspect of extracting economic benefits from a corporation becomes difficult to substantiate if corporate profits are diverted through various financial mechanisms, such as affiliated transactions, transfer pricing arrangements, or the utilization of low-tax jurisdictions. Consequently, although the regulation has provided a definition of a beneficial owner, its practical application in

⁶⁶ Rian Matanky-Becker and Ella Cockbain, "Behind the Criminal Economy: Using UK Tax Fraud Investigations to Understand Money Laundering Myths and Models," *Crime, Law and Social Change* 77, no. 4 (May 18, 2022): 405–29, <https://doi.org/10.1007/s10611-021-09997-4>

⁶⁷ Tales Tomaz, "Media Ownership and Control in Europe: A Multidimensional Approach," *European Journal of Communication* 39, no. 5 (October 22, 2024): 498–511, <https://doi.org/10.1177/02673231241270994>



law enforcement continues to face significant impediments. The following is a summary of the Beneficial Owner criteria based on Presidential Regulation Number 13 of 2018 concerning the Application of the Principle of Recognizing Beneficial Owners of Corporations.⁶⁸

Table 1. Identification Criteria for Beneficial Owners in Indonesia

Easily Detectable BO Criteria	Difficult-to-Detect BO Criteria
Share ownership exceeding 25%	Authority to appoint, replace, or dismiss members of the board of directors and board of commissioners.
Voting rights exceeding 25%	Criteria of receiving benefits from the limited liability company.
Receipt of profits or gains amounting to more than 25% of the corporation's annual profits	Authority or power to influence or control the limited liability company without requiring authorization from any party.
Share ownership and voting rights explicitly stated in the articles of association	Being the ultimate owner of the funds behind the company's share ownership.

Source: Processed by the author.

Third, in addition to normative and administrative deficiencies, a fundamental issue within the Indonesian tax law system resides in the application of the classical doctrine of corporate liability. Indonesian law predominantly adheres to the principle of separate legal personality, which strictly bifurcates the liability of a legal entity from the individuals within it. Although this doctrine ensures legal certainty in business transactions, it frequently serves as an impediment to piercing the corporate veil to uncover the actual perpetrators.⁶⁹ In the context of taxation, this situation complicates the ability of law enforcement authorities to substantiate the involvement of beneficial owners operating behind nominal directors or shell companies. For instance, in several tax cases highlighted by national media, tax authorities have identified companies utilized solely as intermediaries, special purpose vehicles (SPVs) to transfer profits abroad through transfer pricing or affiliated transactions. Corporate directors are often merely individuals formally employed without possessing tangible control over financial decisions.⁷⁰ Nonetheless, because the legal framework still assigns criminal liability to administratively registered subjects, the parties who control and enjoy the economic benefits escape legal repercussions. Furthermore, the approaches utilized in general criminal law (KUHP) and tax statutes differ conceptually; the KUHP emphasizes individual fault and malicious intent (*mens rea*), whereas tax laws focus more on administrative negligence and formal obligations.

⁶⁸ Hariyanto Hariyanto, Mabarroh Azizah, and Nurhidayatulloh Nurhidayatulloh, "Does the Government's Regulations in Land Ownership Empower the Protection of Human Rights?," *Journal of Human Rights, Culture and Legal System* 4, no. 2 (May 28, 2024): 391–421, <https://doi.org/10.53955/jhcls.v4i2.222>

⁶⁹ Ery Pamungkas et al., "Reconstruction of Indonesian Tax Law Based on The Principle Of Distributive Justice To Establish A Welfare State In The Framework of The Rule of Law," *Journal of Law, Politic and Humanities* 6, no. 2 (December 16, 2025): 1023–38, <https://doi.org/10.38035/jlph.v6i2.2670>

⁷⁰ Evelina Gavrilova and Guttorm Schjelderup, "Crime Havens: Tax Planners and Financial Institutions Rub Shoulders with Criminals," in *Research Handbook On The Economics Of Tax Havens* (Edward Elgar Publishing, 2024), 256–78, <https://doi.org/10.4337/9781803929743.00023>



This divergence complicates the efforts of law enforcement authorities to fully implement the principles of corporate criminal liability.⁷¹

In addition to the deficiencies in legal substance, law enforcement against beneficial owners also encounters impediments within the legal structural framework. One primary constraint is the limitation of human resources and restricted access to the data necessary for identifying actual beneficial owners.⁷² In practice, the Directorate General of Taxes does not invariably possess the direct authority to acquire information regarding beneficial owners from financial institutions or other entities without undergoing lengthy administrative procedures. In fact, the swiftness and comprehensiveness of access to financial information constitute critical factors in the investigation and evidentiary processes of tax crimes. Moreover, the lack of coordination and data synchronization among state institutions presents a significant hurdle. Various institutions utilize divergent definitions and criteria regarding the concept of the beneficial owner.⁷³ For instance, the Indonesian Financial Transaction Reports and Analysis Center (INTRAC) tends to employ an approach focusing on control over accounts or fund flows, whereas tax authorities emphasize share ownership, and the economic benefits derived from a corporation. These divergent approaches create potential legal misinterpretations and generate gray areas that certain parties may exploit to evade criminal liability. Absent definition harmonization and effective data exchange mechanisms, efforts to identify and prosecute beneficial owners in tax offenses will continue to confront structural impediments.⁷⁴

Beyond the aspects of legal substance and structure, the deficiencies in law enforcement are also intrinsically linked to the legal culture prevailing within the taxation system. A tax compliance culture that remains insufficiently robust, coupled with the prevalent use of nominees or intermediary companies in business activities, remains relatively commonplace. In such an environment, corporate ownership transparency is frequently marginalized as a primary priority; consequently, the disclosure of actual beneficial owners is not consistently conducted in a transparent manner. This predicament ultimately reinforces the inclination to utilize complex corporate structures to obscure the identities of beneficial owners and evade tax obligations. Therefore, fortifying a legal culture that underscores the principles of transparency, accountability, and tax compliance constitutes a vital element in efforts

⁷¹ Lalu Saipudin et al., “The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System,” *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (August 30, 2025): 475–99, <https://doi.org/10.29303/ius.v13i2.1817>

⁷² Carol Atkinson et al., “Small Firms, Owner Managers and (Strategic?) Human Resource Management,” *Human Resource Management Journal* 32, no. 2 (April 4, 2022): 449–69, <https://doi.org/10.1111/1748-8583.12406>

⁷³ Soňa Karkošková, “Data Governance Model To Enhance Data Quality In Financial Institutions,” *Information Systems Management* 40, no. 1 (January 2, 2023): 90–110, <https://doi.org/10.1080/10580530.2022.2042628>

⁷⁴ Hyongmook Cheong, Boyoung Kim, and Ivan Ureta Vaquero, “A Data Valuation Model to Estimate the Investment Value of Platform Companies: Based on Discounted Cash Flow,” *Journal of Risk and Financial Management* 16, no. 6 (June 7, 2023): 293, <https://doi.org/10.3390/jrfm16060293>



to enhance the efficacy of law enforcement against beneficial owners implicated in tax offenses.⁷⁵

Predicated on the various deficiencies and impediments in tax crime law enforcement, particularly concerning the accountability of beneficial owners, there is an imperative for renewal and reconstruction within the legal framework governing criminal liability in the taxation system. Regulatory shortcomings, limitations in beneficial owner identification mechanisms, and a predominantly formalistic evidentiary approach indicate that the existing legal system is not yet fully capable of reaching the substantive actors who exercise control over and derive economic benefits from a corporation. Therefore, it is necessary to fortify the concept of criminal liability, shifting from a basis of mere administrative status within corporate structures to one grounded in factual control and the receipt of economic benefits. This approach enables law enforcement authorities to trace the parties who tangibly govern strategic corporate decisions, influence taxation policies, and reap rewards from tax avoidance or evasion practices. Consequently, law enforcement is no longer confined to formal corporate executives but can reach the individuals residing behind corporate structures as the actual beneficial owners.⁷⁶

Rethinking Criminal Liability of Beneficial Owners in Tax Crime Enforcement

Within the context of law enforcement against tax crimes involving corporations, strengthening corporate ownership transparency constitutes a vital instrument for identifying parties who tangibly control and derive economic benefits from a business entity.⁷⁷ Increasingly complex modern corporate structures frequently utilize various intermediary entities, thereby enabling beneficial owners to conceal their identities behind the veil of legal entities. This condition results in significant difficulties for law enforcement authorities in determining the parties to be held criminally liable for tax avoidance and evasion practices.⁷⁸ Consequently, various jurisdictions have developed regulatory frameworks that specifically emphasize the disclosure of information regarding beneficial owners as an integral component of strategies to prevent financial and tax crimes.⁷⁹

A notable practice serving as a benchmark is the policy implemented in Singapore through the amendments to the Singapore Companies Act. This regulation mandates

⁷⁵ Alhassan Musah et al., “Ethical Organisational Culture, Effective Internal Control Systems and Tax Compliance of Small and Medium Scale Enterprises (SMEs): The Role of Corporate Governance,” *Social Sciences & Humanities Open* 11 (2025): 101331, <https://doi.org/10.1016/j.ssaho.2025.101331>

⁷⁶ Andres Knobel, “Why Beneficial Ownership Frameworks Aren’t Working- and What to Do About It,” *SSRN Electronic Journal*, 2024, <https://doi.org/10.2139/ssrn.4783012>

⁷⁷ Salvatore Cincimino, Fabio La Rosa, and Sergio Paternostro, “Corporate Governance, Stakeholder Involvement, and Government Interventions as Corporate Prevention Strategies Against Organized Crime,” in *Corporate Governance, Organizational Ethics, and Prevention Strategies Against Financial Crime* (Springer, Cham., 2025), 407–23, https://doi.org/10.1007/978-3-031-74523-2_19

⁷⁸ Peter Duncan and Nicholas Lord, “Fit and Proper? Analyzing the Potential for Illicit Activity through English Premier League Club Ownership Structures,” *Sport in Society*, December 3, 2024, 1–21, <https://doi.org/10.1080/17430437.2024.2424563>

⁷⁹ Jessica Amen Uwamusi, “Navigating Complex Regulatory Frameworks to Optimize Legal Structures While Minimizing Tax Liabilities and Operational Risks for Startups.,” *International Journal of Research Publication and Reviews* 6, no. 2 (February 2025): 845–61, <https://doi.org/10.55248/gengpi.6.0225.0736>



that every company maintain a register of beneficial owners and provides an electronic registration system recording information on shareholders and directors of private companies.⁸⁰ Such data is accessible to competent authorities to bolster corporate ownership transparency while preempting the exploitation of legal entities for illicit purposes.⁸¹ These obligations are not confined to corporations as legal entities but extend to various professional service providers, including corporate service firms, cooperatives, and banking institutions which are required to maintain and report beneficial ownership information.⁸² Oversight is further expanded to encompass specific non-financial businesses and professions, ensuring that all entities involved in company incorporation and management comply with ownership transparency principles. This experience illustrates that corporate ownership transparency is a fundamental prerequisite for improving the efficacy of law enforcement against economic crimes. An integrated registration system allows the state to trace the nexus between ownership structures and economic activities, particularly in cross-border tax avoidance. Thus, Singapore's implementation serves as a significant lesson learned for Indonesia in fortifying its regulatory framework and oversight mechanisms for corporate beneficial ownership.⁸³

Predicated on these conditions, the reconstruction of the tax legal system constitutes a strategic measure to align regulations with the increasingly complex realities of the modern economy. *Firstly*, this must be executed at the normative level through the reformulation of the Tax Law, particularly concerning Article 43, by incorporating explicit provisions stating that the subjects of criminal liability are not solely limited to executives or corporations as legal entities but also encompass beneficial owners. This formulation should provide an operational definition regarding what constitutes actual controllers and economic beneficiaries of a business entity.⁸⁴ Consequently, the tax legal system can reach parties who substantively derive benefits from corporate activities, even if they are not formally recorded within the company's organizational structure. The implementation of this corporate tax criminal law reconstruction must also consider aspects of public policy and efficient institutional design. The reformulation of tax law provisions can be supplemented with reporting obligations for every legal entity engaged in cross-border transactions, thereby ensuring that tax authorities have access to the information necessary for

⁸⁰ Lerong Lu and Ci Ren, "Innovating Corporate Share Listing Frameworks: A Comparative Study of SPAC Regulatory Regimes in the United Kingdom, Singapore, and Hong Kong," *Asia Pacific Law Review* 32, no. 2 (July 2, 2024): 436–58, <https://doi.org/10.1080/10192557.2024.2349388>

⁸¹ Christian Leuprecht et al., "Detecting, Disrupting and Deterring Sexual Exploitation of Trafficked Persons: Leveraging Beneficial Ownership Registries to Reduce Criminogenic Information Asymmetry and Raise Public Expectations," *Current Issues in Criminal Justice* 37, no. 2 (April 3, 2025): 264–86, <https://doi.org/10.1080/10345329.2025.2466869>

⁸² Tom Barbereau and Balázs Bodó, "Beyond Financial Regulation of Crypto-Asset Wallet Software: In Search of Secondary Liability," *Computer Law & Security Review* 49 (July 2023): 105829, <https://doi.org/10.1016/j.clsr.2023.105829>

⁸³ Alemayehu Yismaw Demamu, "Legal Issues of Transparency and Disclosure in Ethiopian State-Owned Enterprises: A Global Perspective," *International Journal of Law and Management* 66, no. 5 (July 23, 2024): 578–601, <https://doi.org/10.1108/IJLMA-11-2023-0256>

⁸⁴ Daffa Ladro Kusworo, "Refinement of Taxpayer Legal Subject Provisions in the New Criminal Code against the Offence of Corporate Tax Avoidance in Indonesia," *Corruptio* 4, no. 2 (November 9, 2023): 81–92, <https://doi.org/10.25041/corruptio.v4i2.3128>



oversight.⁸⁵ The integration of the tax system with the Automatic Exchange of Information (AEOI) mechanism, as developed by the OECD, will strengthen the state's capacity to trace fund flows involving beneficial owners abroad, while simultaneously narrowing the scope for tax avoidance practices through tax haven jurisdictions.⁸⁶

Second, in addition to normative reforms, strengthening transparency within the corporate financial sector constitutes a pivotal aspect of the tax law system's reconstruction.⁸⁷ Financial transparency has evolved into a global trend championed by various nations, including G-20 member states, as an endeavor to bolster corporate accountability. The disclosure of beneficial ownership information enables law enforcement authorities to trace suspected instances of money laundering, tax evasion, and other corporate-related economic crimes.⁸⁸ Such transparency pertains not only to the identity of the transacting parties but also encompasses the purpose of the transaction and the underlying source of funds. Consequently, corporate ownership transparency not only provides legal protection for legitimate owners but also fortifies legal certainty and facilitates a more optimal asset recovery process.⁸⁹ In the Indonesian context, regulations concerning beneficial owners were introduced through Presidential Regulation Number 13 of 2018 regarding the Application of the Principle of Recognizing Beneficial Owners of Corporations. Nevertheless, the implementation of said regulation continues to encounter several constraints, primarily relating to the absence of an integrated information system regarding corporate controllers. As a result, beneficial ownership information cannot yet be optimally utilized by tax authorities in tracing taxpayer compliance. This persists even though, in corporate operational practice, the beneficial owner is the party that tangibly derives the greatest economic benefit from the company's activities. Therefore, fortifying regulations on beneficial ownership possesses the potential for a multiplier effect in supporting efforts to eradicate tax evasion.⁹⁰

Third, subsequent reconstruction must be carried out at the institutional level through the establishment of a national beneficial ownership registration system. This registry would serve as a centralized corporate ownership database accessible to various relevant institutions, such as the Directorate General of Taxes, the Indonesian

⁸⁵ Wedha et al., "Unraveling the Complex Policies Regulating Conflicts of Interest and Criminal Corruption."

⁸⁶ Putu Gede Arya Sumerta Yasa et al., "Automatic Exchange of Information (AEOI) for Indonesian Tax Purposes: Economic Analysis of Law Approach," *Lex Scientia Law Review* 6, no. 1 (June 13, 2022): 157–86, <https://doi.org/10.15294/lesrev.v6i1.55143>

⁸⁷ Hana Jaradat and Mohammad Salem Oudat, "Enhancing Clarity and Transparency in Islamic Financial Practices: The Role of Regulatory Influence," *Journal of Financial Reporting and Accounting* 24, no. 2 (March 13, 2026): 607–25, <https://doi.org/10.1108/JFRA-07-2024-0479>

⁸⁸ Samiratou Dipama and Nilay Tüzgen, "The Expansion of International Organizations: Insights From the G20's Inclusion of the African Union," *Alternatives: Global, Local, Political*, January 9, 2026, <https://doi.org/10.1177/03043754251415212>

⁸⁹ Hasbullah Hasbullah, Huala Adolf, and Sigid Suseno, "State Loss Settlement Policies in the Bank Indonesia Liquidity Assistance Case," *Journal of Human Rights, Culture and Legal System* 6, no. 1 (January 30, 2026): 1–30, <https://doi.org/10.53955/jhcls.v6i1.798>

⁹⁰ Georgios Pavlidis, "Deploying Artificial Intelligence for Anti-Money Laundering and Asset Recovery: The Dawn of a New Era," *Journal of Money Laundering Control* 26, no. 7 (December 18, 2023): 155–66, <https://doi.org/10.1108/JMLC-03-2023-0050>



Financial Transaction Reports and Analysis Center (INTRAC), and the ministry responsible for legal administration.⁹¹ An integrated registration system will enhance corporate ownership transparency while simultaneously narrowing the opportunities for perpetrators to conceal their identities behind fictitious legal entities.⁹² Furthermore, coordination among law enforcement agencies must be strengthened through collaborative mechanisms that facilitate real-time data exchange and joint risk analysis regarding entities suspected of obscuring beneficial owners.⁹³ Strengthening the capacity of law enforcement officials is also a vital factor in supporting the efficacy of said legal reconstruction. Investigative capabilities in the field of forensic accounting must be enhanced and integrated with the utilization of big data analytics technology to detect tax avoidance patterns executed through complex corporate structures. This multidisciplinary approach can expedite the evidentiary process in criminal tax cases while minimizing the potential for data manipulation by perpetrators. Consequently, legal reconstruction is not merely normative in nature but also operational and oriented toward the effectiveness of law enforcement.⁹⁴

Nonetheless, the implementation of these legal reforms is inextricably linked to various challenges. Resistance from certain business actors and institutions vested in corporate data confidentiality remains a primary hurdle in advancing corporate ownership transparency.⁹⁵ Consequently, it is imperative to strike an equilibrium between the principles of transparency and privacy protection to ensure that the implementation of the beneficial ownership registration system does not engender public distrust.⁹⁶ Furthermore, law enforcement authorities must achieve a unified perception in applying the doctrine of substance over form, thereby preventing inconsistencies within the investigation and prosecution processes against tax offenders.⁹⁷ Ultimately, the successful reconstruction of the criminal tax law system is heavily contingent upon the political and moral commitment of all stakeholders. Legal reforms oriented toward substantive justice must be executed consistently, transcending a mere administrative response to global economic developments. Law must function as a moral and social instrument to uphold fiscal justice, fortify public

⁹¹ Muhammad Ilman Abidin, Ahmad M. Ramli, and Laina Rafianti, "Institutional Framework for NFT Governance in Indonesia: A Proposal for a Specialized NFT Authority," *Cogent Social Sciences* 11, no. 1 (December 31, 2025), <https://doi.org/10.1080/23311886.2025.2579523>

⁹² Paul Beckett, *Beneficial Ownership and Legal Responsibility* (London: Routledge, 2024), <https://doi.org/10.4324/9781003425120>

⁹³ Jordan C. Pickering and Andrew M. Fox, "Enabling Collaboration and Communication Across Law Enforcement Jurisdictions: Data Sharing in a Multiagency Partnership," *Criminal Justice Policy Review* 33, no. 7 (August 28, 2022): 732–55, <https://doi.org/10.1177/08874034211066756>

⁹⁴ Anis Mashdurohatun et al., "Combating Digital Defamation: Regulations, Challenges and Protecting Reputation," *Journal of Sustainable Development and Regulatory Issues (JSDERI)* 3, no. 3 (September 16, 2025): 486–514, <https://doi.org/10.53955/jsderi.v3i3.147>

⁹⁵ Georgios Vranopoulos, Nathan Clarke, and Shirley Atkinson, "Big Data Confidentiality: An Approach Toward Corporate Compliance Using a Rule-Based System," *Big Data* 13, no. 2 (April 1, 2025): 90–110, <https://doi.org/10.1089/big.2022.0201>

⁹⁶ "The Construction of the Relationship between the Chinese Government and Public Trust: A Case Study of Online Personal Information Security," *The Frontiers of Society, Science and Technology* 7, no. 4 (2025), <https://doi.org/10.25236/FSST.2025.070402>

⁹⁷ Deen Kemsley and Sean A. Kemsley, "Tax Evasion Savings versus Unlawful Predicate Proceeds: A Substance-Based Approach," *Journal of Money Laundering Control* 27, no. 4 (June 4, 2024): 647–57, <https://doi.org/10.1108/JMLC-12-2023-0196>



trust in the taxation system, and ensure that every economic actor remains accountable for the economic benefits they derive.⁹⁸

CONCLUSION

Based on the foregoing discussion, several conclusions can be drawn. *First*, the increasingly complex structure of corporate ownership in modern business practices often makes it difficult to identify the true owner of a corporation. In this context, the concept of the beneficial owner becomes essential for revealing the individuals who exercise control and derive economic benefits from a corporation. Although regulations in Indonesia have defined the concept and criteria of beneficial ownership, the current regulatory framework primarily emphasizes ownership transparency and has not explicitly integrated the position of the beneficial owner as a legal subject who can be held criminally liable in tax crimes. *Second*, law enforcement against beneficial owners in tax-related crimes in Indonesia continues to face significant challenges. Existing tax regulations and evidentiary systems tend to adopt a formalistic approach that focuses mainly on administrative subjects within corporate structures. As a result, the substantive actors who control and benefit economically from corporate activities often remain beyond the reach of criminal liability. *Third*, strengthening the criminal liability of beneficial owners in the enforcement of tax crimes requires a reconstruction of the legal system. This includes regulatory reform that explicitly positions the beneficial owner as a legal subject, improvements in the transparency of corporate ownership structures, and the development of an integrated registration system accompanied by stronger institutional coordination. Such measures are necessary to ensure that the substantive actors behind corporate structures can be effectively identified and held accountable through law enforcement mechanisms.

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⁹⁸ Saartje Sarah Alfons, Miracle Soplanit, and Syed Muhammad Huzaif Mail, "Creating Substantive Justice in State Administrative Courts: A Theoretical, Philosophical, and Human Rights Review," *Jurnal Suara Hukum* 6, no. 2 (January 17, 2025): 298–306, <https://doi.org/10.26740/jsh.v6n2.p298-306>



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