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## **The Imposition of Digital Taxes in E-commerce**

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### **Abstract**

In the business world, information and communication technology offers an advantage in terms of supporting online commercial transactions, also known as Electronic System-Based Trade (E-commerce). Tax is one of the most significant governmental revenues for national development. It aims to increase people's prosperity and welfare, which requires a lot of economic resources. The objectives of this paper is to learn more about the regulations surrounding Digital Tax in e-commerce. This study's research method is a normative research method with a statutory approach. The the result reveal that there is no difference between e-commerce and traditional commerce in terms of the economic advantages provided; the only difference is in the method of completing transactions or the media used to meet sellers and customers. The criteria for Permanent Establishment (BUT) are being expanded with the goal of requiring corporations domiciled abroad to pay income tax even if they do not have a physical office in Indonesia.

**Keywords:** *E-commerce, Digital Products, Tax*

### **I. INTRODUCTION**

Income Tax (PPh) arises in the context of online transactions since the seller gains additional economic capacity as a result of the buyer's payments, whilst Value Added Tax and Luxury Tax (PPnBM) arise when the objects provided are taxable goods (Anditya, 2016). Article 23 A of the 1945 Constitution of the Republic of Indonesia stipulates that "All taxes and other levies for the needs of the state of a compulsory nature shall be regulated by law. ", which implies that taxes must be regulated by law and thus are regulated in written law, which is included in various laws and regulations (Kristian & Ramadhan, 2020). According to research by the Institute for Development of Economics and Finance (INDEF) and Laboratorium Data Persada (2019), the digital economy contributed 814 trillion rupiahs (56.4 billion USD) to Indonesia's GDP in 2018, accounting for 5.5 percent of GDP. This demonstrates how the Indonesian economy has benefited from the digital economy.

Indonesia's digital economy was valued at USD 40 billion in 2019. The value of the digital economy contributed positively to state revenues in the taxation sector. As a result, in 2020, the government began levying a tax on digital businesses, known as the Digital Tax (Kharisma, 2020). One of the government's responses to the Covid-19 pandemic on the national economy is through Government Regulation instead of Law (Perppu) Number 1 of 2020, which was later stipulated by Law Number 2 of 2020 regulating several revised and new policies to stabilize state finances, which mandates the imposition of 3 taxes that can be implemented during the pandemic, namely Value Added Tax (PPN) on E-commerce transactions, Corporate Income Tax (PPh) through the redefinition of Permanent Establishments and Electronic Transaction Tax (PTE). or additional tax if the Corporate Income Tax cannot be imposed due to a tax treaty between countries.

Following that, the Indonesian government issued another regulation, namely Law Number 11 of 2020 on Job Creation, which reaffirmed the imposition of E-commerce taxes on VAT and PPh for e-commerce business actors, both producers as providers of goods and/or services and consumers as users of goods and/or services, through Article 111. The use of digital products in the form of intangible goods and services by domestic consumers are officially subject to Value Added Tax (VAT) since July 2020, where the systematics used in collecting, depositing, and reporting VAT on digital products are handed over to e-commerce business actors. The increase in state revenue from

the Digital Tax is significant. In 2015, the European Union reported EUR 3 billion in state income, which grew to EUR 4.5 billion in 2018. In the first two years, Australia reported state revenues of AUD 728 million, far exceeding the original target of AUD 348 million for the first year. As a result, on July 1, 2020, the Indonesian government started levying a Digital Tax for businesses that provide digital services/goods but do not have a Permanent Establishment in Indonesia.

Regulations regarding e-commerce taxes are provided in the Regulation of The Minister of Finance Number 48/PMK.03/2020 Procedures for Appointing Collectors, Collection, Remittance, And Filing Of Value-Added Tax On The Utilization Of Intangible Taxable Goods and/or Taxable Services From The Outside Of The Customs And Excises Territory Within The Customs And Excises Territory Through Electronic Commerce which came into force on July 1, 2020 (Liana, 2021). Between July 1, 2020, and April 20, 2021, the Directorate General of Taxes has authorized 65 firms as VAT collectors of digital e-commerce taxes, six of which are based in Indonesia. From January to April 2021, e-commerce tax revenue increased by Rp. 1.11 trillion. This amount is still far short of the Rp. 10 trillion target the Ministry of Finance set. If this trend continues, digital economic activity will give rise to a new type of shadow economy.

E-commerce has several characteristics that make taxation more difficult, including e-commerce makes transactions carried out no longer hindered by location; the traded product has turned into a digital product; changes in the mechanism of trade transactions that make it easier for buyers and sellers to meet because of a bigger market; work that does not require physical presence; the ability to store transaction details in digital form (Sasana, 2019).

Digital service users in Indonesia are increasing every year, especially in 2020. During the pandemic, many people are doing activities from home. Netflix movie streaming digital service subscribers in Indonesia reached 94,979 users in 2017. In 2020 increased rapidly to 906.797 users (Utami, 2020). Although producers and service providers do not need to be physically present in a country to conduct business, this complicates the implementation of a Digital Tax because the producer or service provider must first be recognized as a Permanent Establishment. In the meantime, producers and/or service providers could only be recognized as a Permanent Establishment if they have a physical presence, except for construction, installation, or assembly projects; provide services for more than 60 days in a calendar year; and have an agent who is not independent (Hikma, 2020). The research aim is to learn more about the regulations surrounding digital Tax in e-commerce.

## **II. METHOD**

This is a normative research that involves both a statutory and a conceptual approach. The statutory approach involves evaluating the laws and regulations governing Value Added Tax (VAT) on Digital Products in e-commerce, which must be complied by taxpayers, and are regulated by existing regulations, which are based on primary sources and related literatures. The primary legal sources in this study are obtained by reviewing the applicable laws and regulations, namely Law Number 7 of 2021 on Harmonization of Tax Regulations and Government Regulation of the Republic of Indonesia Number 80 of 2019 concerning Trading Through Electronic Systems. Secondary legal sources in the form of literature, articles, and legal journals related to Digital Taxes in e-commerce are obtained by reading, summarizing and reviewing the laws and regulations related to the problem.

## **III. RESULT AND DISCUSSION**

### **3.1 E-commerce**

Because people's mobility is limited during the Covid-19 pandemic, they are forced to use the internet to support their daily routines, driving higher internet usage. Indonesia's digital economy transaction value has risen yearly, from USD 40 billion in 2019 to USD 44 billion in 2020. It is expected to continue to rise to 23 percent, or USD 124 billion, or IDR 1,748 trillion, in 2025. Article 1 number 22 of Government Regulation Number 80 of 2019 concerning Trading Through Electronic Systems states: "Trade through electronic systems (e-commerce) is the trade which transactions are carried out through a series of electronic devices and procedures." E-commerce is an arrangement of activities related to transactions of goods and/or services within the country and beyond the borders of the

country to transfer rights to goods and/or services to obtain compensation which is carried out through a series of electronic devices and procedures.

Based on Article 4 of Government Regulation No. 80 of 2019, the scope of trade includes trading through electronic systems, which have the following scope: Business To Business Consumer, Online To Offline To Consumer, Consumer To Business, Business To Administration, Business To Consumer, and Consumer To Administration. four e-commerce models will be subject to a 10% Value Added Tax, namely:

1. Online Marketplace is a business model that provides a site for business activities, such as selling goods and services like an Online Mall. The Online Marketplace provider provides a selling platform and is not the owner of the goods and services offered online.
2. *Classified Ads* are a business concept allowing marketers to post their advertisements online.
3. Daily Deals is a website-based business where a Daily Deals Merchant sells goods and/or services to customers using vouchers as a payment method.
4. Online Retail is a business model in which Online Retail providers sell items and/or services to customers via their website.

Because e-commerce transactions are conducted virtually, it is commonly assumed that taxation does not apply. However, the economic benefits of e-commerce are the same; the only difference is in the method in which transactions are conducted or the medium in which sellers and consumers meet (Paramitari et al., 2019). The following are the five principles of e-commerce taxation: 1) Neutrality, tax regulations must be neutral for all forms of commerce; 2) Efficiency, costs such as taxpayer compliance fees and administrative expenditures for the Directorate General of Taxes must be reduced maximally. 3) Clarity and Simplicity: Tax regulations must be clear and simple to comprehend so that taxpayers are aware of the imposition of taxes when transactions are made; 4) Effectiveness and Fairness: tax calculations must be accurate and timely; 5) Flexibility: the taxation system must be adaptable and dynamic to keep up with technological and trade advancements. OECD member countries agree that the source principle is used in the collection of income tax on e-commerce with a permanent establishment, and the domicile principle is used in the collection of income tax on e-commerce that does not have a permanent establishment.

### **Digital Taxes in E-commerce**

Law Number 7 of 2021 on Harmonization of Tax Regulations provides legal certainty and protection for business actors in running their business systems online, both within and outside Indonesia.

The government regulates companies who own e-commerce platforms as VAT collectors from their customers in the imposition of transaction taxes through electronic media, according to Law Number 11 of 2020 concerning Job Creation. With the expansion of the permanent establishment criteria, the government also imposes income tax on foreign tax subjects (SPLN) related to electronic transactions in Indonesia to ensure that companies domiciled abroad are still required to pay income tax even if they do not have a physical office in Indonesia. A business model used by a foreign individual or entity for undertaking business or activities in Indonesia that meets the following criteria is deemed a permanent establishment (Hikmah, 2020):

1. It has a place of business in Indonesia;
2. The place of business must be permanent.
3. The Foreign Individual or Entity uses the place of business for undertaking business or activities;
4. It is in the form of a construction, installation, or assembly project;
5. The provision of services in any form by employees or other people for more than 60 days in 12 months;
6. A person or entity acting as an agent whose position is not independent; agents or employees of insurance companies not established and domiciled in Indonesia who receive insurance premiums or bear risks in Indonesia.

Digital tax objects can be in the form of digital goods and digital services. Based on Article 1 point 6 of the Regulation of the Minister of Finance Number 48/PMK.03/2020 concerning Procedures

For Appointing Collectors, Collection, Remittance, And Filing Of Value-Added Tax On The Utilization Of Intangible Taxable Goods And/Or Taxable Services From The Outside Of The Customs And Excises Territory Within The Customs And Excises Territory Through Electronic Commerce, Digital Goods mean any intangible goods in the form of electronic or digital information, covering all goods that have been converted or transformed or those that are electronic in its origin, including but not limited to software, multimedia, and/or electronic data. Meanwhile, based on Article 1 point 7, Digital Services are services that are sent via the internet or electronic networks, are automated or involve only little human interference, and are only possible to be confirmed with information technology, including but not limited to software-based services. Due to the transfer of tax actors from tangible objects to digital platforms by PMK 48/2020, the promise of digital tax revenues for digital products for the state has great potential. However, there are obstacles to imposing VAT on digital items, including a low level of taxpayer compliance and a high number of Intellectual Property Rights (IPR) infringements that are detrimental to both the creator of the work and the state.

Several countries have imposed a Value Added Tax on every e-commerce transaction. The European Union, for example, imposes VAT on every downloadable product delivered to business institutions or end users. This, however, is different from the situation throughout Europe. Any software product downloaded within Germany will be subject to a consumption tax imposed by local suppliers. Taxation, on the one hand, might reduce the competitiveness of similar products or services compared to competitors from other countries. Of course, this is seen as a disadvantage by European businesspeople. As a result, the European Union continues to explore further steps to reform the implementation of e-commerce taxes across Europe. India and the Philippines are seriously considering future VAT policies in e-commerce. India is a potential information technology (IT) giant that exports a wide range of digital goods and services. Most of these goods and services still need to be taxed, putting the state at a revenue disadvantage (Sudrajat, 2020).

Identity and location issues related to the possibility that one or both parties involved in e-commerce transactions use sites or internet protocols that cannot be traced, making it difficult to identify the identity and location of the parties involved in e-commerce transactions, and characteristic issues related to digital products in an intangible form that cannot be classified as goods because they lack physical characteristics, the issue of law enforcement in e-commerce transactions, where it is often difficult to determine the identity and location of the parties involved in the transaction, making the law enforcement process for parties who do not comply with tax collection and payment difficult to implement; the issue of the international cross-border transaction, which is related to e-commerce transactions of digital products sold by sellers from abroad, making it more difficult to impose Digital Taxes (Indrawati, 2016).

#### **IV. CONCLUSION**

Indonesia's digital economy is growing at a rapid speed, and this condition brings great potential for the country's economic growth. E-commerce is similar to other types of products or service transactions, with the exception of the method or tools used. As a result, e-commerce is taxed in the same way that conventional trade are. Digital taxes are regulated in the Law on Harmonization of Tax Regulations and Government Regulations on E-commerce to create justice for the domestic business climate, and prevent leakage of Digital Taxes from within the country. There are obstacles to imposing taxes digital products, including a low level of taxpayer compliance and the difficulty of identifying the identity and location of parties involved in e-commerce transactions, making the law enforcement process for those who do not comply with tax collection and payment difficult. This will result in tax frauds which will have an impact on the loss of state revenue from taxes. It is intended that Digital Taxes can be imposed on all forms of digital transactions with the expansion of the Permanent Establishment requirement, which aims to ensure that businesses domiciled abroad are still required to pay income tax even if they do not have a physical office in Indonesia. It is expected that by enacting regulations in the implementation of e-commerce, tax revenues would be more ideal, in addition to giving legal certainty. Because the government needs to maximize tax collections in e-commerce, it is required to socialize the substance and administration of the application of taxes on digital products in e-commerce to all stakeholders in e-commerce.

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