

Legal Approach and Tax Policy in E-commerce Transactions in the Middle of Digital Transformation

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ARTICLE INFO

Keywords: E-commerce, E-commerce Tax, Juridical Analysis

Received : 18, April

Revised : 20, May

Accepted: 22, June

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ABSTRACT

E-commerce provides numerous benefits for merchants and consumers alike, thus necessitating the continued use of the internet for transactions. However, it is anticipated that transactions following this model will eventually be supplanted by traditional face-to-face exchanges between buyers and sellers. The research methodology employed in this work is a normative legal approach. An review of tax laws regarding e-commerce transactions in Indonesia reveals that the growth of the Internet in the business sector, particularly in trade, not only provides several advantages for both buyers and sellers. E-commerce refers to the commercial transactions involving the purchase and sale of products and services conducted through the internet. The exponential growth of e-commerce in Indonesia has given rise to tax issues with e-commerce transactions.

INTRODUCTION

Indonesia is a country based on the state of law and national philosophy of Pancasila, which seeks to realize a national welfare system and a cultural form that upholds the constitutional rights of every citizen, in order to achieve harmony and balance between individuals, interests, group interests. The development of technology in Indonesia has progressed very rapidly, especially in the field of the Internet. The internet can be used as an opportunity to do business, such as buying or selling goods or services. The reason is, the power of the internet in online marketing brings some disadvantages, such as losses for traders in traditional markets. This makes it easier for customers to buy through the online system. Besides being convenient in terms of time, it also makes it easier for customers in terms of travel distance. Consumers can act anytime and anywhere (Sitompul, 2001).

E-commerce has many advantages for merchants and consumers, because the use of the internet is still needed to make transactions, and is expected to be replaced by transactions that still use the old model, namely face-to-face transactions between buyers and sellers, payments, and gift giving. Many young and old people are involved in online business. The amount of profit that can be obtained from this type of online marketing will make many people want to try doing online marketing business. Convenience and many benefits are the main reasons why online retailers plunge into e-commerce. For entrepreneurs who do not have the funds to open a store, e-commerce can be like a gold mine. Sales made by online retailers reach domestic and international markets, so goods cannot go unsold. These high profits are also possible if these online marketers are not subject to government taxes.

In e-commerce, people often consider taxes illegitimate because of the very close distance of transactions. However, the transaction is still carried out as income so there is no difference in financial results. The difference lies only in the way the transaction is carried out or the way the buyer and seller meet. E-commerce taxation has many aspects and is no different from business operations in general. These online marketers also earn huge profits without being taxed by the government. This is different from most traditional retailers. Therefore, there is overlap in terms of taxation. This is very dangerous because the circulation of money on the internet is much higher than in the real world. Although there has been no official research, the transaction value is estimated to be very low and does not match the value of e-commerce transactions that occur.

There are many member countries that avoid taxes from e-commerce transactions, including income tax and value-added tax. Various problems in e-commerce transactions related to the identification of the identity and location of the communicating party, as well as the time and place of delivery of goods and services become easier and encourage taxpayers to avoid tax obligations. However, this is supported by the results of research (Cahyadi & Margana, 2018) which discusses actions that can be taken by the Tax Administration to optimize government revenue from income tax applicable as an e-commerce

entrepreneur in Indonesia. Build an audit system by establishing policies related to the obligations of e-commerce participants and the use of certificates that

It is reliable for providers of electronic transactions in the private sector to strengthen government supervision and tribes. If the majority of conventional stores transition to internet sellers, there will be a decrease in government taxes. Regarding this matter, tax regulations pertaining to electronic commerce are highly pertinent. To establish equilibrium and impartiality in society, particularly within the realm of commerce. If the tax is not allocated to e-commerce in the same manner as traditional shops, it will have repercussions on the accurate application of legal principles. Indeed, the competition among entrepreneurs becomes skewed, leading to a lack of balance, while the tax burden remains unchanged.

Fair. Amongst individuals who file taxes online. Indonesian online shopping websites utilize the internet to conduct their commercial operations. The internet serves as a virtual marketplace where buyers and vendors convene and where the marketing process takes place. E-commerce platforms operating in Indonesia must comply with applicable legal regulations. Maximizing government revenue can be achieved by collecting taxes from e-commerce. Hence, there is a complete absence of any intersection between conventional entrepreneurs and online entrepreneurs. The issue with internet shopping lies in the application of identical taxes on traditional retailers. Practically speaking, the significant volume of money involved in online transactions raises concerns about whether traditional trading is subject to the same regulatory authorities as online commerce, specifically value-added tax (VAT) and income tax (PPH). The Indonesian government should possess the capacity to effectively address tax issues in the realm of e-commerce due to the numerous advantages derived from this sector. Indonesia boasts four unicorn businesses operating in the e-commerce sector. and legal errors that are relevant in Indonesia. Taxation in e-commerce encompasses various facets that are similar to taxation in other company operations.

In previous research (Makalalag, 2016) it was found that online marketing activities are subject to income tax because income tax is levied based on objective conditions (entrepreneurship) and objective conditions (income), then entrepreneurs in the field of internet marketing (e-commerce) are subject to income tax. entitled to pay income tax. However, if online business transactions (e-commerce) are taxed as per current income tax laws, the tax is not very high. Another study (Valentino & Wairocana, 2018) found that there are many potential taxation in e-commerce in Indonesia, and many obstacles in e-commerce taxation, ranging from legal and government issues, including taxpayers because the tax is too high, and many obstacles in imposing taxes on e-commerce, ranging from legal and governmental issues, to internet entrepreneurs being taxed to pay taxes. They also suggest that the government create specific laws to regulate this process so that the potential can be effectively harnessed. The resolution of the problems that the author faces, this raises the author's desire to conduct a more in-depth study of tax problems on e-commerce

transactions in the form of scientific journals, but only within the scope of e-commerce transactions. in Indonesia.

LITERATURE REVIEW

Internet

The internet can be used as an opportunity to do business, such as buying or selling goods or services. The reason is, the power of the internet in online marketing brings some disadvantages, such as losses for traders in traditional markets. This makes it easier for customers to buy through the online system. Besides being convenient in terms of time, it also makes it easier for customers in terms of travel distance. Consumers can act anytime and anywhere (Sitompul, 2001).

E-commerce

E-commerce has many advantages for merchants and consumers, because the use of the internet is still needed to make transactions, and is expected to be replaced by transactions that still use the old model, namely face-to-face transactions between buyers and sellers, payments. and gift giving. Many young and old people are involved in online business.

METHODOLOGY

This research applies a qualitative approach where this approach will be carried out systematically related to the juridical analysis of taxation in e-commerce transactions in the era of digitalization. Qualitative research refers to research that uses various scientific methods to gain a deeper understanding of the phenomena surrounding the subject of research in a natural setting through written and verbal descriptions. The approach used is descriptive where this research aims to explain the solution of current problems based on historical information. This study used a data collection method based on literature research sourced from magazines, books and other sources.

The source of legal information used in this study is the main legal information obtained by reviewing related laws and regulations, namely: Constitution of the Republic of Indonesia Year 1945, Law of the Republic of Indonesia Number 6 Year 1983 concerning General Terms and Conditions of Tax, Law of the Republic of Indonesia Number 11 Year 2008 concerning Electronic Information and Transactions, Law Number 42 of the Republic of Indonesia Year 2009 concerning Additional Tax Value and Sales Tax on Luxury Goods, Law Number 7 of the Republic of Indonesia of 2014 concerning Electronic Information and Transactions, Law of the Government of the Republic of Indonesia Number 46 of 2013 concerning Income Tax, Law of the Minister of Finance of the Republic of Indonesia Number 210 / PMK.010 / 2018 concerning Income Tax on Transactions Through Electronic Transactions (E-commerce) and the Decree of the Director General on the Ratification of the Tax Law on Electronic Transactions The tax code contained in the circular is SE-62/PJ/2013. Secondary sources of law are articles, articles, legal journals, and other sources of information related to the problem. The method of collecting legal information in this study is by using the written method, which is carried out by reading, summarizing and

reviewing legal regulations and literature research related to trade taxation in Indonesia.

RESEARCH RESULT

E-commerce

Electronic commerce or known as e-commerce, encompasses all facets of business transactions conducted through information and communication technologies. However, as time passed, the concept of trade expanded. Currently, e-commerce encompasses more than just the act of purchasing and selling goods over the Internet. It also encompasses online customer support and the sharing of business-related information. The Tax Department has developed four distinct models for categorizing e-commerce transactions: online marketplaces, classified ads, everyday transactions, and online purchasing. An online marketplace is a digital platform that enables merchants to offer goods and services through virtual stores. This transaction model offers incentives in the form of rental or registration fees for individuals who provide space and/or time to advertise and sell goods and services through online stores on the Internet. Furthermore, online retailers remunerate online store operators a specific sum as commissions for providing brokerage services and facilitating the sales of goods and services. The line e-commerce transaction model refers to the practice of advertisers utilizing websites provided by operators.

Classified ads are used to allocate space or time for displaying adverts of goods and services. Readers are required to pay fees to classified ad organizers, which are considered transaction costs and are liable to both income tax and value-added tax. Presently, the third approach known as "Daily Actions" bears resemblance to an online marketplace, however, the mode of payment employed is in the form of coupons. Online shopping involves the sale of goods and services by online shopping providers to customers on online shopping websites. Under the electronic transaction model, any fee or revenue earned from the buying and selling of products or services is liable to be taxed as per the income tax (PPH) and value added tax (VAT) legislation in force. Payment of taxes. The Law of the Republic of Indonesia Number 11 of 2008, also known as the Electronic Information and Communication (ITE Law), establishes the creation of a new legal authority called the Telematics Law. It is commonly employed in legal proceedings concerning the utilization of information technology and its associated systems. Legal issues develop and impact the transmission of information, communication, and electronic transactions, particularly those pertaining to evidence and legal actions conducted via electronic systems. Significant issues occur in the public sector when electronic communication via electronic systems gets integrated into local and international trade. According to Article 5 of the ITE Law, electronic commerce recognizes certain electronic documents as legally binding and trade symbols. These papers may also have an impact on tax rates. E-commerce is a commercial activity involving transactions, and those who operate in this field are required to adhere to relevant rules and regulations. Unaltered Subsequently, the reader remits a monetary amount to the classified ad organizer as a transaction fee, which is liable to income tax and value-added tax (VAT).

Tax

Taxes according to the laws of the Republic of Indonesia Law Number 28 Year 2007 concerning General Provisions and Procedures for Taxation Tax is a mandatory contribution to the government A person or institution that has legal authority, do not accept compensation and spend it on the needs of the Government to strive for a better life for its people. In the book "Taxation Theory and Cases" (Official, 2015), the circumstances related to the definition of tax are:

- a. Taxes are collected according to lawful procedures.
- b. The government did not report any errors in personal tax returns.
- c. The government collects taxes from the central and local governments.
- d. If the tax revenue is more, it can be used for government spending which will later be used to finance public investment.

Taxation Aspects in E-commerce Transactions

E-commerce is the process of trading goods and/or services between entrepreneurs and customers using electronic platforms. E-commerce transactions, like other marketing tactics, employ distinct approaches and instruments. Consequently, there is no disparity in the way taxes are handled for each. The Ministry of Finance Law No. 210/PMK.10/2018 and the Government Tax Administration Circular No. SE - 62/PJ/2013 pertain to the regulations and requirements for e-commerce transactions:

- a. Tax treatment of income received from electronic trading activities
- b. Law on value-added tax and sales tax on luxury goods for e-commerce transactions
- c. VAT laws and regulations on taxpayers conducting e-commerce transactions

DISCUSSION

E-commerce transactions are transactions carried out through online or internet systems. *E-commerce* can be defined as commercial activities carried out in communication networks such as fax, telephone, email and EDI, as well as electronic methods including communication, shopping and financial transactions over the internet (*e-banking*). For entrepreneurs who do not have the funds to open a store, *e-commerce* can be like a gold mine. Sales made by online retailers reach domestic and international markets, so that the products are no less in demand. These high profits are also possible if these online marketers are not subject to government taxes. This is different from most traditional retailers. In *e-commerce*, people often assume taxes are invalid because transactions happen so quickly. However, the transaction is still used as income so that there is no difference in financial results. The difference lies only in the way the transaction is carried out or the way the buyer and seller meet. *E-commerce* taxation has many aspects and is no different from business operations in general. Therefore, there is overlap in taxation. This is very dangerous because the circulation of money on the internet is much higher than in the real world.

E-commerce brings many benefits to both retailers and consumers, so the use of the internet to transact is still necessary and is expected to replace transactions that still use traditional models, such as where buyers and sellers face each other to pay a price. This is different from traditional retail where goods can only be purchased at store locations. No wonder more and more people are choosing to buy and sell goods and services online. If more and more traditional retailers switch to online shopping, then government tax revenues will decline. In this regard, tax laws for *e-commerce* are very relevant. To create balance and fairness in society, especially in the business world. Commercial activities carried out by Indonesian online shopping websites mostly use the internet in carrying out their activities. The internet is used as a meeting place for buyers and sellers and a place where the marketing process occurs. Online shopping websites operating in Indonesia are subject to relevant legal provisions. There are four (four) types of *e-commerce* in Indonesia, namely: online markets, classified ads, daily transactions, and online shopping. Relevant to the legal framework of trade activities in Indonesia is Trade Law Number 7 of 2014. As stated in Article 4 paragraph (1), one part of Trading is trading carried out through an electronic system. The scope of *e-commerce transactions* in Indonesia can be described as follows: business to business, consumer, consumer online to offline, consumer to business, business to government, business to consumer, consumer to government.

Tax Law Boxing in E-commerce Transactions

Various facets of taxation in *e-commerce* are indistinguishable from those in ordinary business. According to Article 9 paragraph 1 of Regulation 210/PMK.010/2018 by the Minister of Finance of Indonesia, taxes such as VAT, Luxury Goods Sales Tax, and Income Tax will be applied to the sale of goods and services in electronic commerce, advertising, daily offers, or through social media. These taxes will be imposed in accordance with the existing laws and regulations in the field of taxation. According to Circular Letter SE-62/PJ/2013 issued by the Director of Taxes, point F states that the regulations and procedures for general taxation and executive orders that apply to regular traders also apply to taxpayers involved in electronic commerce. Part G addresses regulations pertaining to the taxation of income derived from internet commerce, while part H focuses on regulations concerning value-added tax (VAT) and sales tax on luxury products on the Transaction online store. Pajak Online offers a dedicated program for *e-commerce* called the *e-commerce* tax API (program Program Interface). This API facilitates the integration of online platforms with tax calculation, deposit, and reporting functionalities, all inside a single unified application. State applications facilitate the process for internet firms to submit their tax returns. The income in question can be categorized as sales revenue, license fees, and interest. *E-commerce* is a lucrative opportunity for entrepreneurs lacking the funds to establish a physical store.

Online merchant marketing can reach domestic and foreign countries, so it is impossible for the goods not to sell. The VAT charged on this transaction, although no valid research has been conducted, is estimated to be very small and not comparable to the value of online shopping transactions. There are still many taxpayers who tend to avoid paying taxes – both income and VAT – on these *e-commerce* transactions. Various difficulties arising in efforts to identify the identity and location of the transacting parties, the time and place of service delivery in electronic business transactions facilitate and encourage taxpayers to avoid their tax obligations. The government must be serious in handling tax issues on electronic business transactions in Indonesia, because the results of electronic business transactions are very useful. Even Indonesia already has (four) unicorns in *e-commerce*. If *e-commerce* actors are given freedom in terms of taxation, both income tax and VAT, it will cause inequality and injustice in existing laws and regulations in Indonesia. Fundamental, conceptual, and operational issues related to taxation of electronic business transactions that have circulation and income tax must be regulated separately, for example: definition or limitation of electronic business transactions, characteristics of goods and / or services traded electronically, identity and location of parties conducting *e-commerce* transactions, procedures for *e-commerce* transactions cross-country, recovery mechanisms, deposits, reporting, control and enforcement, etc. Important things There are still many taxpayers who allow *e-commerce* transactions to avoid taxes, both income and VAT.

Failure to apply the *e-commerce* tax in a manner consistent with that applied to regular merchants can result in inequity in the enforcement of the legislation, thereby distorting competitiveness among enterprises as a result of an unequal tax burden. Individuals who file their taxes electronically and those who file their taxes through traditional paper methods. Hence, it can be asserted that *e-commerce* taxes serves as a method for fair allocation of resources and revenue within society. Online commercial transactions The complexity of transactions extends beyond the four types outlined above. There is a challenging issue with the taxation of *e-commerce* transactions. The initial condition: Electronic business transactions have the ability to cross international borders. Another prerequisite is that the commodities and/or services exchanged must be in a digital format, such as computer software, music, magazines, or other such items. Physical transactions are deemed unnecessary and can be substituted by digital transmission. The three criteria of *e-commerce* occurred rapidly and simultaneously around the globe within a brief period. Nevertheless, the transactions conducted continue to yield revenue, resulting in no disparity in terms of the financial benefits produced. However, the sole distinction is in the method of the transaction or the manner in which the seller and buyer come together. Various facets of taxation in *e-commerce* are indistinguishable from those in ordinary business. Hence, the primary difficulty in levying taxes on electronic commerce transactions lies in devising precise regulations to address potential tax implications in such circumstances. If taxes are levied on this *e-commerce*, then the government's revenue is significantly elevated. There is now a complete separation between traditional merchants and online entrepreneurs.

CONCLUSIONS AND RECOMMENDATIONS

E-commerce or also called electronic trade is the act of buying, selling and trading goods and / or services through electronic means such as the Internet. The range of e-commerce transactions includes: consumer-to-business, business-to-business, consumer, online-to-online-to-consumer, business-to-consumer, consumer-to-government, and business-to-government. In accordance with the Circular Letter of the State Tax Agency concerning the Determination of Tax Law on E-commerce Transactions (No. SE-62 / PJ / 2013) which explains the general terms and conditions of taxation that apply in accordance with the old transactions and procedures contained in the Circular. Implementer, Merchant and Taxpayer Regulations also apply to Taxpayers who carry out e-commerce transactions. The basis for imposing taxes on e-commerce is four (four) e-commerce transaction models in Indonesia, namely online markets, classified ads, daily transactions, and online shopping. The basis for imposing taxes is the replacement, purchase price, and export value of goods and/or services requested by the operator. The suggestion in this study is the need for firm action on the rules governing taxation in e-commerce transactions so that later there will be taxpayer awareness from business people in e-commerce.

ADVANCED RESEARCH

Still conducting further research to find out more about Legal Approach and Tax Policy in E-commerce Transactions in the Middle of Digital Transformation

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