



Driving Digital Business Growth: Pursuing Harmonization Between Technological Advancements and Tax Regulations

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Abstract. The rapid advancement of technology has dramatically transformed the business landscape, particularly in the context of digital business involving various business models such as digital platforms, digital product sales, and online advertising. However, the existing tax regulations are not fully aligned with these digital business models, necessitating legal improvements and adjustments to enable the government to collect taxes fairly from this sector. This research discusses the need for legal improvements in the financial and taxation regulations of digital businesses. Factors to be considered include electronic payments, cross-border transactions, digital taxes, and taxation for digital business actors. Appropriate and technology-responsive legal improvements will provide a solid foundation for the growth of digital businesses and bring benefits to the government in collecting taxes fairly while maintaining justice within the taxation system. Through legal research and policy analysis, this study provides insights into the importance of legal improvements in the financial and taxation regulations of digital businesses. The implementation of appropriate regulations will create a healthy and innovative ecosystem in the digital era, promote sustainable growth of digital businesses, and enhance the trust of business actors and consumers in utilizing digital technology in their business activities.

Keywords: Finance, Taxation, Digital Business

1 Introduction

In recent years, rapid technological advancements have brought about significant paradigm shifts in the business world. The exponential growth of information and communication technology has dramatically transformed the business landscape, especially in the context of digital business. Digital business encompasses various business models, including digital platforms, digital product sales, and online advertising. The increased use of the internet, mobile devices, and digital platforms has

created new opportunities and changed the way people interact with products and services.

However, in this evolving business landscape, the existing tax regulations are not fully aligned with the rapidly developing digital business models. The existing tax regulations were designed to accommodate traditional business models and have not adequately considered the challenges and complexities arising from digital business. As a result, governments face difficulties in effectively and fairly collecting taxes from the digital business sector.

The mismatch between tax regulations and digital business creates uncertainty and barriers to the growth of this sector. For digital entrepreneurs, the ambiguity surrounding taxation aspects can influence investment decisions, business planning, and innovation. On the other hand, governments miss out on the potential tax revenue that should be collected from the growing digital business sector.

To address these challenges, adequate legal improvements and adjustments are needed in tax regulations to accommodate the unique characteristics and dynamics of digital business. Introducing appropriate legal changes is essential to ensure that governments can collect taxes fairly from the digital business sector. This will create a clear and transparent legal framework for digital business actors, provide legal certainty, and facilitate sustainable growth in the digital business era.

2 Methode

The method employed in this research is normative legal research, also known as doctrinal legal research. According to Peter Mahmud Marzuki, all types of research related to law inherently possess a normative nature. The statutory approach is utilized in this study, wherein relevant legal regulations pertaining to the examined issue are examined. Furthermore, primary, secondary, and tertiary legal materials are scrutinized through library research. The descriptive analytical approach is also utilized to analyze these materials, involving the depiction of the researched object through a descriptive method.

3 Discussion

a. The Mechanism of Value Added Tax Collection for Business Entities Engaged in Electronic Commerce (PMSE)

Taxes are levies imposed by the government based on laws and regulations, and the proceeds are used to finance government's general expenditures that are not directly reciprocated by specific payments, while their implementation, when necessary, can be enforced. (Widaja, 2002)

According to Rochmat Soemitro, (Soemitro, 2011) That taxes are citizens' contributions to the state treasury based on (enforceable) laws, without receiving direct reciprocal services (counterperformance) that can be immediately demonstrated, and are used to cover public expenditures. N.J. Feldmann in his book "De overheidsmiddelen van Indonesia, Leiden, 1949" states: "Belastingen zijn aan de Overheid (volgens

algemene, door haar vastgestelde normen) verschuldigde af dwingbare prestaties, waaraan tegenprestatie tegenover staat en uitsluitend dienen tot dekking van publieke uitgaven," which translates to "Taxes are enforceable obligations owed to the government (according to general norms established by it), for which no reciprocal service is provided and solely serve to cover public expenditures." (Suandy, 2011) The translation of the definition is as follows: "Taxes are unilateral enforced contributions owed to and payable to the authority (according to the norms established by it), without any reciprocal service, and solely used to cover public expenditures."

From an economic perspective, the understanding of taxes is seen as a transfer of resources from the private sector to the public sector. This understanding provides an overview that the existence of taxes leads to two changes. Firstly, it reduces individuals' ability to control resources for the purpose of acquiring goods and services. Secondly, it increases the financial capacity of the government in providing public goods and services that are needed by the society. (Sutedi, 2013)

The provisions of Article 23A of the 1945 Constitution of the Republic of Indonesia regulate and determine that taxes and other compulsory levies for the needs of the state are governed by legislation. According to the Kamus Besar Bahasa Indonesia (Indonesian Dictionary), taxes are compulsory levies, usually in the form of money, that must be paid by the population as mandatory contributions to the state or government in relation to income, ownership, purchase prices of goods, and so on. Taxes are contributions to the state (enforceable) owed by those obligated to pay them according to regulations, without receiving direct reciprocal services, which can be identified, and their purpose is to finance general expenditures related to the duties of the state in carrying out governance. (Mardiasmo, 2004)

Taxes can be viewed from various perspectives. From an economic perspective, taxes are government revenue used to promote the welfare of society and as an engine for economic growth. Taxes are also a matter of state finance that requires regulations to govern financial issues. From a financial perspective, taxes are considered crucial for state revenue. From a sociological perspective, taxes are viewed in terms of their impact on society in terms of collection and the benefits they can provide to the community.

One effective type of tax during the pandemic is the tax on Electronic Commerce Activities (PMSE). Taxation of electronic economic activities/PMSE is not a new phenomenon and has been implemented in various countries for several years, such as Australia since 2017, the European Union since 2015, and Japan since 2014. In Indonesia, the collection of taxes on PMSE is regulated by Government Regulation Number 80 of 2019 concerning Electronic Commerce.

Indonesia has been somewhat delayed in collecting taxes on electronic economic activities because there is no designated institution or body to manage the data and information from these PMSE activities. Therefore, the implementing regulations of Government Regulation Number 80 of 2019 have also not been established. The regulations in the Information and Electronic Transactions Law and the Government Regulation on PMSE aim to develop domestic trade and expand the tax base. The collection of taxes on PMSE is not only motivated by the Covid-19 pandemic but also by the significant potential of PMSE in conducting cross-border and transcontinental

transactions. Therefore, clear regulatory formulations are needed to oversee economic activities and identify taxpayers in order to increase tax revenue.

The Value Added Tax on Electronic Commerce Activities (VAT on PMSE) is a tax policy implemented by the government through the Ministry of Finance Regulation Number 60/PMK.03/2022. VAT on PMSE is levied on intangible taxable goods or taxable services originating from outside the customs area and used within the customs area of Indonesia.

Following the destination principle, intangible taxable goods such as digital products are subject to VAT. The implementation of VAT on PMSE is in line with the principle of equal treatment, where taxable goods and services consumed domestically, including those obtained through digital transactions, are subject to VAT. The government regulates the mechanism for collecting VAT on PMSE specifically. In its implementation, the collection is carried out by VAT collectors on PMSE appointed by the government. Article 1 Paragraph 17 of the Ministry of Finance Regulation Number 60/PMK.03/2022 explains that VAT collectors on PMSE are business entities appointed by the Minister of Finance, who have the obligation to collect, remit, and report the amount of Value Added Tax on Electronic Commerce Activities. The authority to appoint business entities as VAT collectors on PMSE is delegated by the Minister of Finance to the Directorate General of Taxes through the issuance of a Decree by the Director General of Taxes, which takes effect in the following month after the appointment date. PMSE business entities include Foreign Traders, Foreign Service Providers, Foreign PMSE Organizers, and/or Domestic PMSE Organizers.

The criteria for appointing business entities as VAT collectors on PMSE are regulated in Article 3 of the Directorate General of Taxes Regulation Number PER-12/PJ/2020, which are:

- 1) The transaction value with Buyers in Indonesia exceeds IDR 600,000,000 (six hundred million rupiahs) within one year, or IDR 50,000,000 (fifty million rupiahs) within one month.
- 2) The number of traffic or users in Indonesia exceeds 12,000 (twelve thousand) within one year, or 1,000 (one thousand) within one month.

As of March 31, 2022, the Directorate General of Taxes (DGT) has appointed 103 PMSE business entities as VAT collectors. (Ortax, 2022) The appointed VAT collectors on PMSE will be given a tax identification number as a means of tax administration. The VAT collectors on PMSE have an obligation to activate their accounts and update their data online through the application or system specified by the Directorate General of Taxes.

VAT collectors on PMSE must issue evidence of collection in the collection of VAT on PMSE. The evidence of VAT collection is a document equivalent to a Tax Invoice and must include the name and Tax ID Number (NPWP) of the Buyer or Recipient of Goods/Services, or include the registered email address in the administration of the Directorate General of Taxes. The evidence of collection can take the form of a commercial invoice, billing, order receipt, or similar documents that record the collection of VAT and its payment. Like VAT in general, VAT on PMSE can be credited if it meets the applicable requirements.

The remittance of VAT on PMSE is done in each tax period, no later than the end of the following month after the tax period ends. Meanwhile, the reporting of VAT on PMSE must be done through quarterly reports or annual reports if requested by the Directorate General of Taxes. The quarterly report includes the reporting of VAT that has been collected and remitted for a 3-month tax period, no later than the end of the following month after the quarterly period ends. The quarterly report is submitted electronically through the PMSE Portal and a Proof of Electronic Receipt is provided. The quarterly report is treated the same as the Periodic VAT Return for PMSE.

If the VAT collectors on PMSE do not meet certain criteria according to the consideration of the Directorate General of Taxes, their appointment as VAT collectors on PMSE may be revoked by issuing a Decree by the Director General of Taxes, which takes effect at the beginning of the following month after the revocation date. In this case, the tax identification number of the revoked VAT collector on PMSE will be deleted.

The VAT rate on PMSE is the same as the conventional VAT, which is 11% of the Taxable Base. The Taxable Base is the monetary value paid by the Buyer/Recipient of Goods or Services. VAT on PMSE is collected when the payment is made by the Buyer.

The globalization of the internet in economic transactions has a positive impact on tax revenue in Indonesia. The ease of transactions between countries provides an opportunity for Indonesia to collect taxes on the use of Goods and Services through VAT on PMSE. According to the Directorate General of Taxes report, the realization of VAT on PMSE revenue until the end of February 2022 has reached IDR 5.35 trillion. The breakdown of this realization is IDR 731.4 billion in 2020. (Santoso, 2022) The increase in VAT on PMSE revenue is influenced by a shift in behavior that increasingly relies on the internet. The value of this revenue is estimated to have reached an optimal level.

The optimization of VAT on PMSE revenue also depends on the businesses that provide intangible Taxable Goods and Taxable Services. It is important for these businesses to maintain trust in developing their businesses, thereby minimizing non-compliance in remitting VAT on PMSE.

Barriers in this regard can reduce the effectiveness of VAT revenue. According to AA, the Directorate General of Taxes (DGT) currently faces two challenges that can hinder tax revenue from the potential of PMSE. First, it is related to the statement that VAT collectors on PMSE are considered Taxable Persons. Second, it is related to the supervision of VAT collectors on PMSE.

Just like threats in other internet transactions, taxing digital transactions also provides opportunities for tax avoidance behavior. Therefore, the DGT has implemented several strategies to minimize tax avoidance in VAT on PMSE, one of which is by using Web Scraping techniques to track tax potential from e-commerce businesses. Web Scraping is a method of collecting specific information from websites to generate the required data, so that the data can be analyzed and utilized for specific purposes. (Djufri, 2020)

The DGT has successfully and effectively tracked PMSE VAT business actors through several methods, such as web scraping, information exchange, and collabora-

tion with KOMINFO and Bank Indonesia. This allows the DGT to access data from PMSE VAT business actors. Regarding sanctions for non-compliant PMSE VAT collectors, the DGT can apply administrative sanctions in accordance with applicable provisions, and measures such as access revocation, IP blocking, or narrowing gateways can be taken to restrict access in Indonesia.

The implemented PMSE VAT mechanism is quite adequate and generates significant revenue potential for Indonesia. However, it is regrettable that the PMSE VAT rules only apply to intangible Taxable Goods and Taxable Services originating from outside the customs area that enter Indonesia's customs area. Meanwhile, the value of digital e-commerce transactions in Indonesia is also very high. Therefore, if this PMSE VAT mechanism is also applied to digital transactions in Indonesia, it will generate potential state revenue.

On December 31, 2018, the government issued PMK 210/PMK.10/2018 regarding the Tax Treatment of Trading Transactions through Electronic Systems (E-commerce) with the aim of creating equal treatment between conventional trade and trade through electronic systems (e-commerce). The PMK also aims to maintain fairness in the business environment between conventional trade entrepreneurs and e-commerce trade entrepreneurs, as well as provide supervision over marketplace platforms, including providers of goods and services on marketplace platforms. The content of the PMK requires marketplace platforms to provide data to the DGT, such as the Taxpayer Identification Number (NPWP) and the platform's National Identity Number (NIK), as well as the traders or service providers in accordance with the provisions stated in Article 3 of PMK 210/PMK.10/2018.

The DGT will use the requested data as part of its tax exploration efforts through tax intensification and extension methods. The concept of tax intensification, as explained in Circular Letter of the Director General of Taxes No. SE06/PJ.9/2001, refers to activities aimed at optimizing tax revenue by focusing on taxable objects and subjects that are already registered in the DGT's administration. Tax extension, which is further regulated in Circular Letter of the Director General of Taxes No. SE-14/PJ/2019, refers to the supervision activities carried out by the DGT on taxpayers who have met subjective and objective requirements but have not registered to obtain a Taxpayer Identification Number, in accordance with the provisions of tax regulations.

Unfortunately, PMK 210/PMK.10/2018, which was previously issued, was actually withdrawn by the government. The withdrawal of this PMK was due to its inconsistency with the expected conditions in society. There were many misunderstandings among the public regarding this PMK, leading the government to decide to withdraw it. The public perceived that PMK 210/PMK.10/2018 would impose new taxes. The withdrawal of the PMK was carried out to alleviate misunderstandings in society and to conduct more comprehensive coordination among the involved Ministries/Agencies. This coordination is necessary to create an efficient, effective, targeted, and fair e-commerce tax system. As a result of the withdrawal of the PMK, data related to e-commerce business trading has faced obstacles. Until now, there is no new regulation that obliges e-commerce players to provide data on sales turnover.

This becomes a barrier in remitting VAT, resulting in suboptimal VAT revenue from digital transactions..

b. Policy Solutions for Achieving Harmony Between Technological Advancement and Tax Regulations

Globalization and the increasing digital transactions have created new opportunities in taxation. The Indonesian government has introduced the Value Added Tax (VAT) for Social Media and E-Commerce Service Providers (PMSE) as an effort to collect VAT from these businesses. However, the current regulations for PMSE VAT only apply to goods and services originating from abroad and used domestically. In other words, the taxation of digital transactions in Indonesia still follows conventional trade mechanisms.

According to research firm DateReportal, as of January 2022, the number of mobile devices in Indonesia reached 370.1 million. This figure exceeds the total population of Indonesia, which stands at 277.7 million. Additionally, the number of internet users in Indonesia reached 204.7 million during the same period.(Jemadu, 2022) It can be concluded that the internet penetration rate in Indonesia has reached 73.71% of the total population. The high number of internet users is influenced by the digital behavior of the society, including economic transactions such as buying and selling. Economic transactions in Indonesia are typically conducted through marketplace platforms. According to a report by the Iprice Group, the most visited e-commerce platform in Indonesia in 2021 was Tokopedia, with a total of 149.61 million users. It was followed by Shopee and Bukalapak in the subsequent positions. (Dihni, 2022)

The value of e-commerce transactions has consistently increased until February 2022, with a recorded total transaction volume in Indonesia amounting to 222.9 million. (Ramli, 2022) The transaction value almost reaches the population of Indonesia. In line with the digital economic trend, the author obtained data indicating that the value of QRIS transactions in February 2022 grew by 305%, equivalent to 54.91 million. This growth aligns with the increasing use of digital payment among digital merchants, indicating a high level of e-commerce consumption in Indonesia. The high value of e-commerce transactions also presents a significant potential for digital economic tax revenue if the same VAT (Value Added Tax) mechanism as PMSE (Micro, Small, and Medium Enterprises) is implemented.

Currently, the VAT imposition mechanism adopts a self-assessment or reverse charge mechanism. The reverse charge mechanism makes the consumer responsible for paying taxes according to the VAT system applicable in their country. However, this mechanism is considered suboptimal for digital transactions in Indonesia due to limited access to data for tax authorities and increased opportunities for tax avoidance.

The threshold for becoming a VAT-liable entrepreneur (PKP) in Indonesia, which is set at 4.8 million, is considered too high. In the World Bank's report titled Global Economics Prospect, June 2021 edition, the World Bank suggests that the Indonesian government lower the PKP threshold from 4.8 million to 600 million per year. (Santoso, 2021) The high threshold for VAT-liable entrepreneurs (PKP) in Indonesia has

resulted in ineffective VAT revenue due to the low participation of businesses in becoming PKPs. However, many conventional businesses have already transitioned to digital commerce, even without becoming PKPs. The transition of these merchants presents an opportunity for tax revenue by implementing a new mechanism, such as Intermediary Collection. Intermediary Collection is a mechanism where VAT is collected by intermediaries involved in the supply chain, apart from the sellers.

Another support for reforming the taxation mechanism for digital transactions is the challenge of increasing Indonesia's tax ratio. According to the OECD, Indonesia's tax ratio was only 11.6% in 2019, which is below the Asia-Pacific average and the OECD average. Therefore, there is a need for tax base strengthening reforms through digital tax regulations. Moreover, the OECD has issued the VAT Digital Toolkit for Asia-Pacific to address the challenges of VAT in digital trade. The strong growth of digital trade has created challenges for the VAT system. Through the VAT Digital Toolkit for Asia-Pacific, the OECD provides detailed guidance on comprehensive VAT strategies for all types of e-commerce. This is useful for optimizing VAT revenue and creating a level playing field between conventional and digital businesses.

The implementation of a new VAT imposition mechanism for digital transactions in Indonesia can learn from the PMK 210/PMK.10/2018 regulation. The shift from the self-assessment or reverse charge mechanism can be shifted to withholding tax with the intermediary collection scheme. E-commerce platforms will have two tax obligations. First, as VAT-registered entities, e-commerce platforms will charge fees for the services provided to merchants. Second, as the collector of VAT for micro, small, and medium-sized enterprises (PMSEs), e-commerce platforms will collect VAT from consumers. Merchants, as sellers or service providers, may be required to provide data such as Taxpayer Identification Number (NPWP), National Identity Number (NIK), or other tax identification numbers that can help tax authorities track or verify the sales turnover of those sellers or service providers.

In October 2021, the Indonesian government issued Law Number 7 of 2021 concerning Tax Regulation Harmonization. The HPP Law is intended as a tax reform measure to address current economic challenges, including digital economy challenges. Article 32A of the HPP Law can address the issue of VAT imposition on digital transactions. Article 32A, paragraphs 1 and 2 of the HPP Law state:

- (1) The Minister of Finance appoints another party to carry out deduction, collection, payment, and/or reporting of taxes in accordance with the provisions of laws and regulations.
- (2) The other party referred to in paragraph (1) is a party directly involved or facilitating transactions between the parties involved.

The content of the article can serve as a legal basis for imposing VAT on Digital Transactions in Indonesia. In this regard, the government can appoint e-commerce players such as marketplace platform providers to collect VAT.

The government has provided regulatory space to implement the PMSE VAT mechanism on digital transactions in Indonesia, where the government can appoint other parties facilitating digital transactions to collect, remit, and report taxes on digital transactions in Indonesia. Formulating a policy for the common good is certainly

not easy. Various obstacles and public reactions will arise in response to government policies. Learning from past experiences, the rejection of PMK 210/PMK.10/2018 by the public was caused by misunderstandings that arose within the community. Therefore, to minimize or avoid similar issues, the author provides suggestions based on interviews conducted.

First, there is a need for optimal assessment involving various parties to identify deficiencies and obstacles with the involved parties. Communication breakdowns between the tax authority and taxpayers often occur during tax collection. Taking the example of marketplace platforms, platforms designated by the tax authority to collect VAT usually only fulfill their obligation to remit taxes. However, all forms of income mentioned in the Taxation Law are subject to taxation.

To minimize obstacles and shortcomings among the involved parties, further discussions and assessments are necessary regarding the VAT mechanism on digital transactions.

Second, collaboration with other government agencies involved in adapting the PMSE VAT mechanism is essential. These agencies may include the Ministry of Communication and Information Technology (KOMINFO) providing internet data access, Bank Indonesia providing payment services such as e-wallets, the Financial Services Authority (OJK) overseeing financial transactions in Indonesia, and courier service companies. Coordination among these agencies will result in an efficient, high-quality mechanism that benefits all parties.

Third, optimal supervision by the Directorate General of Taxes is crucial. Although the planned PMSE VAT mechanism applied to digital transactions in Indonesia is efficient, the Directorate General of Taxes must continue to optimize supervision related to digital transactions.

Fourth, extensive public awareness campaigns by the Directorate General of Taxes. Once the designed mechanism has been assessed as optimal and efficient, the Directorate General of Taxes needs to conduct widespread public awareness campaigns in Indonesia. These campaigns aim to prevent misunderstandings within the community.

4 Conclusion

The high volume of digital e-commerce transactions in Indonesia creates a significant potential for tax revenue. By implementing the existing PMSE VAT mechanism, the government can change the mechanism for collecting VAT on digital transactions in Indonesia from self-assessment to withholding tax. Indonesia has supporting factors to adopt the PMSE VAT mechanism in digital transactions, such as widespread internet access and the shift towards digital consumption behavior. Following the spirit of PMK 210/PMK.10/2018, the government can introduce similar regulations to replace the collection of VAT on digital transactions with a designated PMSE VAT collector scheme in Indonesia. The government can appoint third parties involved in the economic chain, such as platform marketplaces, in addition to the sellers. The purpose of this change in the VAT collection mechanism is to obtain more detailed information about taxpayers, such as sales revenue data, identification numbers, and taxpayer

registration numbers (NIK and NPWP). With transparent revenue and other data, the tax authorities will be able to optimize state revenue through tax intensification or expansion.

Moreover, the implementation of the PMSE VAT mechanism on digital transactions in Indonesia can enhance overall tax revenue. It can serve as a solution for the government to strengthen the tax base in Indonesia and address the challenge of increasing the tax ratio. Adapting the PMSE VAT mechanism for digital transactions in Indonesia will also create efficiency, effectiveness, and simplicity in the tax collection system. This will enable the government to achieve the principles of neutrality and fair treatment between conventional and digital business players. Additionally, the government and platform providers will also benefit significantly if this policy is successfully implemented.

However, implementing a policy for the benefit of the country is not easy. Therefore, coordination among all stakeholders, such as platform marketplaces, KOMINFO (Ministry of Communication and Information Technology), Bank Indonesia, other financial institutions, and courier companies, is necessary in the plan to implement the PMSE VAT mechanism. The aim is to produce an optimal policy that can anticipate conflicting interests from various parties, including the government and the public. Currently, the government has approved the implementation of this mechanism through Article 32A of Law No. 7 of 2021 concerning the Harmonization of Tax Regulations. This legal basis will facilitate the Directorate General of Taxes in formulating regulations that align with the implementation of the PMSE VAT mechanism. Of course, to avoid misunderstandings with the public, the government, particularly the Directorate General of Taxes, must continue to strengthen the socialization efforts regarding the planned implementation of this specific mechanism.

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