

Implementation Of Tax Collection on E-commerce Actors Based on Tax Law in Indonesia

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Abstract. The development of e-Commerce is getting more intense due to the Covid-19 pandemic. E-Commerce has actually long appeared before the Covid-19 outbreak and brought major changes to the company's business patterns as well as affecting people's transaction patterns. In the field found e-Commerce actors who sell through personal social media do not pay income tax. This is inversely proportional to e-Commerce actors who peddle their wares in official containers will automatically become income taxpayers if the income earned from selling has exceeded Non-Taxable Income. This method of research approach is normative juridical using a legal approach. The research method used is descriptive analytical. The results, the implementation of tax collection against e-Commerce actors has not been efficient. Self-assessment system provides opportunities for e-Commerce actors to commit acts of fraud and income tax evasion. According to Regulation Number 210/PMK issued by the Minister of Finance of the Republic of Indonesia. 010/2018 The obligation to pay income tax exceeds that of non-taxable income with respect to tax procedures or implementation procedures for online transactions through electronic systems. However, there are still many taxpayers who do not make payments or avoid income taxes. This issue is due to non-compliance and lack of understanding of tax law in Indonesia.

Keywords: Implementation, Tax Collection, e-Commerce, Tax Law

1 Introduction

The Corona Virus Disease 2019 (COVID-19) outbreak was first detected in Wuhan City, Hubei Province, China on December 1, 2019. The World Health Organization (WHO) has declared March 11, 2020 as a corona virus pandemic in the world. Covid-19 changed global economic trends globally. massively. E-commerce has grown rapidly in recent years and has intensified due to the Covid-19 pandemic. E-Commerce actually appeared long before the Covid-19 outbreak and brought major changes to the company's business patterns and influenced people's transaction patterns. During the 2008-2009 world recession, e-Commerce was a relatively stable retail company. Online sales have even continued to increase since 2012 until now when the Covid-19 outbreak occurred and is expected to continue to strengthen post-pandemic.

E-Commerce transactions are different from transactions in general, which trade their wares in a place of buying and selling in general, such as traditional markets, modern markets, supermarkets, and shops in general that can be seen and can be touched directly. E-Commerce on a website or a public social media account that is involved in transactions through the marketplace, like a Bukalapak, Lazada, Tokopedia, Shopee, Zalora, and so on. While for

personal social media such as Facebook, Twitter, and Instagram.[1] However, e-commerce transactions are like conventional transactions which create rights and obligations between business actors and consumers. The fulfillment of these rights and obligations is not always smooth.[2]

Tax is actually a debt, in the sense that the debt of community members to the community, where debt according to the legal sense is an engagement (*verbintenis*).[3] Funds from taxes are used for government administration and activities.[4] Along with the times, natural resources and human resources are decreasing, so taxes are the main choice.[5] Problems then arise from e-commerce transactions related to the imposition of income taxes on e-commerce actors, namely the taxes charged to e-commerce actors have not been comprehensively effective. In the field, e-commerce actors who sell through personal social media and do not pay income tax earned every month reach the minimum limit as a taxpayer or have exceeded the Non-Taxable Income (PTKP) based on the Regulation of the Minister of Finance Number 101/PMK. 010/2016 is IDR 54 million/ year and IDR 4,5 million / month for individual taxpayers.

This is due to the fact that sales on personal social media are free without certain rules, there are no parties responsible for the sale of the tax collection, lack of knowledge of e-Commerce actors related to taxes, lack of socialization from the authorities on tax collection, to the lack of supervision from the authorities over this online business. This is in contrast to e-commerce actors who peddle their wares in official containers according to the Circular Letter of the Director General of Taxes No. SE-62/PJ/2013, Strict rules governing all e-commerce transactions. For those whose income exceeds the Non-Taxable Income (PTKP), they will automatically become taxpayers.

This can happen because, business entities that are incorporated in the online market, classified ads, daily transactions, and online retail are protected by the Directorate General of Taxes to oversee the transactions of online actors inside. So, if there are online actors who have met the standards as taxpayers, the Directorate General of Taxes in each region will send a notification letter as a taxpayer as a warning. This certainly helps the government in registering taxpayers, so that online actors who already meet the standards as taxpayers will find it difficult to avoid it. In contrast to online actors through personal social media, which do not have special rules. So often online actors who are members of related business entities choose to go out and sell their wares only through personal social media. This of course will also have an impact on the income of the business entity, considering that the business entity must pay and provide salaries to its employees.

Generally, maximum income requires compliance and public awareness to carry out their obligations in accordance with applicable policies. The issue of compliance with paying taxes has become important because if the taxpayer does not comply, it can lead to the desire to take actions such as tax avoidance, evasion, and neglect which will ultimately harm the state by reducing tax revenues.[6]

President Jokowi has issued Presidential Regulation Number 74 of 2017 concerning Roadmaps to the National Online or Electronic-Based Trading System (SPNBE) / e-Commerce Road Map for 2017-2019. In this case, the application of taxes on matters or transactions carried out online (e-Commerce) will implement the provisions of the existing regulations, namely Law Number 28 of 2007 concerning General Provisions, Tax Procedures or Procedures (KUP), regulations or laws governing the application of Income Tax (PPh), regulations or laws governing the application of Value Added Tax (PPN), and Government Regulation (PP) Number 23 of 2018 concerning Income Taxes has been collected or paid by anyone, either individually or as an entity that has a certain gross turnover from the business that has been obtained or received.[7]

In addition to the Tax Law, special regulations regarding taxes on e-Commerce transactions are contained in the Circular Letter of the Director-General of Taxes Number SE-62/PJ/2013 about procedures or strict regulations regarding the taxation of e-commerce transactions.[8] In addition, the Directorate General of Taxes issued SE-06/PJ/2015 about calculation and payment of income tax on e-commerce transactions. All taxpayers are required to pay the tax due under the assessment letter or the tax regulations themselves. Based on the determination of the Regional Head to be paid using a regional tax assessment letter (SKPD) or other equivalent document in the form of a ticket or a memorandum of calculation, the taxpayer who fulfills his tax obligations.[9]

Especially when you see the potential for online sales is getting bigger. In an effort to implement justice for all taxpayers, e-Commerce tax collection is a must. However, the government's ability to provide the same level playing field by being able to reach social media channels must also be met because the theme remains the same, namely justice in tax collection. Based on the description of the background, the problem can be formulated as follows: How is the implementation of the principle of justice for the tax collection of e-commerce actors in Indonesia?

Theoretical and Conceptual Framework

a. Classical Economic Theory

Adam Smith (1723-1790) in his book *Wealth of Nations* put forward 4 (four) principles of tax collection commonly known as "four canons taxation" or often called "The four Maxims" with the following description:[10].

b. The principle of equality

This principle implies that for a taxpayer who has more ability and a lot of wealth, the collection of taxes imposed on him is also at a high rate adjusted to his economic capacity.

c. A definite principle

This principle shows that all tax levies must be based on applicable laws and regulations so that parties who violate this tax levy will be subject to legal sanctions in accordance with the Act (UU).

The principle of ease of payment

d. In this principle, tax collection must be based on the right time for the taxpayer (the best time).

Efficiency principle

e. This principle is a benchmark so that no tax collection costs are greater than the tax collection results. This shows that tax collection must be carried out properly and correctly so that the purpose of this tax collection can be achieved.

Legal Certainty Theory

The doctrine of legal certainty comes from Juridical-Dogmatic, which is based on the flow of positivism. This doctrine sees law as an autonomous, independent thing because law is nothing but a collection of rules. Legal certainty can be realized in general by law. The general nature proves that the law does not aim to regulate justice or benefit, but only a certainty.[11] Legal certainty will provide a guaranty to a person in carrying out behavior in accordance with applicable laws and regulations. Vice versa, without legal certainty, there is no definite law or rule in carrying out behavior in life.

Law Enforcement Theory

Law enforcement is the act or effort in the process of enforcing legal norms that is clearly manifested in legal relationships or the traffic of social and national life. Law enforcement is

also a form of business or action that seeks to create and realize ideas of justice, legal certainty, and social benefit that can be achieved and demonstrated in real life. In essence, this idea is a process or action in realizing ideas. Satjipto Raharjo expressed the opinion that action in law enforcement is not a definite action, which can be likened to drawing a straight line between two points.[12] Concretely, law enforcement can apply positive law that must be obeyed. The use of procedures or procedures established by formal law to provide safeguards for the achievement of justice, the maintenance and fulfillment of material law.[13].

2 Research Methods

Research methods

Consistency is the absence of contradictory things within a certain framework. Normative-empirical legal research is legal research regarding the application of normative legal provisions (codifications, laws, or contracts) in action on certain legal events that occur in society.[13]

Research Approach Method

The research approach method is normative legal research method (normative juridical).

3 Discussion

Implementation of Tax Collection Against E-Commerce Actors Based on Tax Law in Indonesia

The government has issued a regulation regarding e-commerce transactions through the Minister of Finance Regulation (PMK) Number 210/PMK.010/2018 concerning taxes that apply to e-commerce transactions starting April 1, 2019, which states that marketplace platform providers are required to have a Mandatory Registration Number. Tax (NPWP). In addition, it must also be confirmed as a Taxable Entrepreneur (PKP). The following are the principal tax obligations for service providers or traders who have made transactions for the delivery of goods and/or services electronically as follows:

1. Service Provider or Merchants

- a. Attach NPWP as taxpayer's personal data.
- b. If you don't have an NPWP, you must register to get a NPWP, or attach a Population Identification Number as a taxpayer's personal data.
- c. If you have a turnover not exceeding Rp. 4.8 billion in a year, the final tax rate is 1%.
- d. If you have a turnover of more than Rp. 4.8 billion in a year, the tax rate is adjusted to the applicable provisions. In addition, taxpayers must register themselves as a Taxable Entrepreneur (PKP).

2. Platform Provider

- a. Attach NPWP and must register as a PKP.
- b. All VAT and PPh transactions related to the sale of goods or the provision of services must be calculated, paid and reported in accordance with applicable regulations
- c. Reporting financial statements on transactions obtained

3. e-Commerce outside platform

Must follow the applicable procedures and provisions related to VAT, Sales Tax On Luxury Goods, and PPh.

In the online platform according to the provisions in the Circular issued by the Director General of Taxes Number SE-62/PJ/2013 to reinforce the Taxation rules on E-commerce Transactions, which includes at least 3 (three) parties involved, namely:

1. Operators who run business activities at online marketplace
2. Merchants who operate and sell goods and/or services at Online Marketplace
3. Buyers who make purchases of goods and/or service at Online Marketplace

Based on a general explanation related to E-commerce or online transactions, the following will be discussed regarding the implementation of the principle of justice in tax collection against E-commerce actors. Talking about the tax collection of E-commerce actors, in this case, the author focuses on Income Tax (PPh) which is associated with policies in the field of taxation, such as the subject of Income Tax (PPh), the object of Income Tax (PPh), the type of income subject to tax is final, Taxpayer compliance, and Taxpayer supervision.

Article 2 paragraph (1) of Law Number 36 of 2008 concerning Income Tax stipulates that:

The tax subjects are:

- a. Personal Income Tax; b. Undivided inheritance;
- c. Corporate; and d. Permanent establishment

Furthermore, the object of Income Tax (PPh) is expressly regulated in Article 4 paragraph (1) of Law Number 36 of 2008 concerning Income Tax.

Based on the income above, it can be ascertained that the E-commerce actors, both in the form of entities and individuals, the types of E-commerce transaction activities, as well as the income earned as taxpayers who receive income. However, it should be noted that only taxpayers who can be subject to income tax meet the Non-Taxable Income Standards (PTKP), namely those with a minimum tax of Rp. 4.500.000,-/month or Rp. 54,000,000,-/year. This is in accordance with Article 21 of the Rule of the Minister of Finance Number 101/PMK.010/2016. So it can be said that even if the person/entity is involved in the affected activity.

E-commerce players who use personal social media themselves, admit that their income, when viewed according to the rules, should have exceeded the PTKP standard and must register as a taxpayer and pay taxes his income. However, the E-commerce actor does not know that the income from his online shop must be subject to income tax. From this, it can be seen that sales made using personal social media are free, without any parties responsible for these activities.

Lack of knowledge about taxes is also a further problem. This is certainly a drawback in attracting E-commerce actors to become taxpayers, especially income tax through online buying and selling activities.

The rapid development of e-commerce will result in increased income in Indonesia. However, this is not fully proportional to tax revenue in Indonesia even though the government has issued several regulations related to this digital transaction. This is due to the lack of awareness that traders or digital service providers will pay taxes and the difficulty of the government in finding these traders or service providers because they do not have physical stores. In addition, there is a sense of injustice between e-commerce actors who sell on personal social media and e-commerce actors who use official platforms.

Some of the problems faced because the government has not succeeded in solving the data problems of e-commerce actors such as the difficulty of knowing the real owner of the e-commerce site, the difficulty of knowing the actual location of the e-commerce actors, the ease of opening and closing a business through e-commerce, the ease of e-commerce actors Commerce deletes information or provides information that can result in errors in transactions, and goes through many different payment processes so that it can make it difficult to know the actual transaction value. The biggest sales are not through e-Commerce platforms, but trading

on personal social media, like Facebook and Instagram. Selling through personal social media is a threat to online business people. "The biggest sales are not in Bukalapak and other e-commerce, but on Instagram, Facebook, and Twitter. Unfortunately, sales transactions on social media are not covered by tax regulations, so this is what players and e-Commerce associations are worried about. It can be threatening."

If the tax rules are applied to online businesses and restrict the movement of e-commerce, it will make people prefer to sell on Instagram, Facebook, and Twitter rather than e-Commerce platforms. Business actors become exodus, it is better to sell on Instagram and Facebook, which are not controlled and do not catch up with taxes because transactions are carried out through back roads. Not only e-commerce business actors are harmed, but also the government because there is no tax payment from sales transactions on personal social media and chat groups (such as WhatsApp and telegram). "So there is a potential for injustice, not equal treatment because the back transaction was detrimental to the government."

Tenants on the online platform consist of various groups, ranging from individuals, Micro, Small, and Medium Enterprises (MSMEs), to business entities. So far, he admits, tax reporting by tenants is self-assessment. Many sellers have fulfilled their tax obligations. However, it is not generalized, because there are companies that have become PKP, there are also MSMEs and individuals who have just started selling with a small turnover, so they are not required to collect VAT.

The government has started collaborating with the Ministry of Communication and Information to deal with the problem of e-commerce taxpayer data that is not detected in applications such as Instagram, Facebook, and Twitter. So that there is no separation between e-commerce taxpayers and conventional taxpayers, all those who do business online still fall into the category of taxable entrepreneurs. The equivalence of the collection system remains the same, namely paying every month and reporting it every year in the SPT.

In Indonesia, taxation is subject to a self-assessment system where taxpayers calculate and assess the performance of their tax obligations by themselves. This causes the ineffectiveness of income tax collection. In e-commerce transaction activities, there are shortcomings that become a reproach for e-commerce actors who use irresponsible personal social media to avoid taxes or even act as if they do not have taxes on the income earned.

In practice, will the Directorate General of Taxes check who is buying? Is there proof of the transaction signed by the seller and the buyer? the answer is of course no, because in transactions that often occur using a trust system where the buyer deposits money via atm/transfer, and then the seller will send the goods in question. While the remaining evidence is only proof of transfer paper and proof of delivery. The case is different if the transaction is carried out by e-commerce actors who are members of the marketplace, where the proof of transfer can be detected by the tax inspector.

According to the author, although e-commerce actors are given the trust to calculate, pay and report the amount of their own taxes, here the government, especially the Director-General of Taxes, must provide counseling and supervision of e-commerce actors, especially those using personal social media such as Instagram.

This is in line with statutory regulations' number 16 of 2009 Article 12 paragraph (1) as to general tax provisions and procedures for taxation procedures, stating that: For e-commerce transactions, it is expected that the government will provide specific rules to regulate the course or procedures for collecting and reporting taxes such as income tax and value added tax for every online transaction, either through the marketplace or personal social media. In addition, it is hoped that there will be strict law enforcement in monitoring or monitoring on a regular basis, so as to minimize gaps for taxpayers to avoid paying taxes or seeming to forget their

obligations in paying taxes. In the article, it is clear that the government also wants taxpayers to be active in paying taxes. Being active here means calculating the tax owed yourself without waiting for a tax assessment.

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