

Legal aspect of income tax collection from buying and sale transactions through social media

Siti Chairana Nurmecca

Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayatullah Jakarta, Jakarta, Indonesia

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ABSTRACT

This study aims to explain the reasons for entrepreneurs who earn income from buying and selling transactions through social media to collect income tax, discuss the mechanisms needed for the collection of income tax and discuss the rules that can be imposed for collecting income tax so that entrepreneurs who earn income from transactions in the media social is obligated to fulfill tax obligations like entrepreneurs in marketplaces and conventionally in creating a level playing field in running a trading business. The results of the study show that disparities/differences in arrangements for collecting income tax from e-commerce transactions are an obstacle to collecting taxes on income earned from buying and selling transactions through the electronic system (e-commerce), arrangements that only target entrepreneurs in the marketplace will cause a large shift -Most entrepreneurs in the market place to move to social media, because income tax is not collected on social media, so to deal with this, entrepreneurs who get income from buying and selling transactions through social media need to collect income tax to fulfill tax obligations according to income tax regulations. applies, so that there is no evasion and injustice in collecting taxes as a whole and thoroughly from online buying and selling transactions, in collecting income tax from buying and selling via social media cooperation between the directorate general of taxes and social media organizers is needed to obtain tax data in seeking state revenue , then the validity of the data is strengthened by the database contained in the national payment gateway (GPN) to detect the value of income transactions obtained from buying and selling transactions on social media, then the rules that can be imposed for income tax collection are following the same applicable income tax provisions like conventional entrepreneurs in general.

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Corresponding Author:

Siti Chairana Nurmecca
Fakultas Syariah dan Hukum, Universitas Islam Negeri Syarif Hidayatullah Jakarta
Jl. Ir H. Juanda No.95, Ciputat, Kec. Ciputat Tim., Kota Tangerang Selatan, Banten 15412
Email: nurmeccacgairana@gmail.com

1. INTRODUCTION

The rapid development of the use of technology has had a major impact on the trading system in Indonesia. Currently, buying and selling is not only done through conventional trading but also followed by the emergence of online trading. The rise of buying and selling transactions through electronic means, raises problems in terms of regulation which is the legal umbrella of online trading

in Indonesia, the Indonesian state as a legal state must actually react to the development of the use of information technology which is used as a means to carry out buying and selling transactions online (e-commerce).

E-commerce is the use of electronic systems for business transactions, e-commerce is also defined as digital trade transactions between organizations or between individuals, 1 in supporting online trading, the law must react to developments in information technology and produce what seems to be a solution for existing problems, so that the law can maintain its relevance in accommodating the development of the entire society and technology. These advantages as rights received by online entrepreneurs must be balanced with the obligation to pay taxes to the state, on income derived from online trading transactions. This income is a consequence of the widespread use of the internet as a means of buying and selling online, the use of the internet is not only used as a means of communication or a source of foreign information, but has been used as the most effective means of conducting business/business relations.

Based on data from Google and Temasek As of October 2019, Indonesia ranks first in the value of electronic commerce transactions in Southeast Asia. The value of e-commerce transactions in Indonesia reaches US\$ 21 billion, in the next few years the value is predicted to be US\$ 82 billion in 2019. 2025, but on the other hand e-commerce has an influence on tax avoidance, on taxes that should be deposited to the state because e-commerce is something whose income cannot be seen real or virtual which can only be seen through an account, seeing the value of this large e-commerce transaction there is a large potential for state revenue by imposing taxes, but until now there are no rules for collecting income tax for entrepreneurs who earn income from social media, resulting in a legal vacuum.

For this reason, a fiscal policy is needed, which is a policy related to determining what will be used as the tax base, who is subject to tax, who is excluded, how to determine the tax payable and how to determine the procedure for implementing obligations. tax payable, 9 because tax payable is a basis for tax imposition in Indonesia.

In order to accommodate e-commerce tax collection, the government has issued presidential regulation Number 74 of 2017 concerning the 2017-2019 electronic-based national trading system road map (E-commerce Road Map), where one of the programs is equal tax treatment by compiling regulations that support the imposition of taxes on foreign and local e-commerce entrepreneurs in accordance with the provisions of laws and regulations in the field of taxation, which is embodied through Minister of Finance Regulation Number 210 of 2018 (PMK-210/PMK.010/2018) regarding the tax treatment of trading through electronic systems (e-commerce), but unfortunately the Minister of Finance Regulation was revoked because it caused chaos and was rejected by the Indonesian E-commerce Association (idea), according to the e-commerce association, PMK 210 has not includes provisions related to trade transactions through social media.

This rule is problematic because based on data from Idea (Indonesian E-commerce Association), 95% of online micro, small and medium enterprises (MSMEs) are still selling on social media platforms and only 9% of online micro, small and medium enterprises (MSMEs) are selling through marketplace platforms.

This refusal with one of the proposals, namely that the obligation to deposit tax payable applies to all platform model providers, namely marketplaces, social media or social media, classified ads, etc., if only entrepreneurs on the marketplace platform are subject to income tax, it will result in unfair business competition where entrepreneurs on local marketplace platforms will be unable to compete with entrepreneurs on social media platforms, even though local market place platforms actually encourage economic growth in Indonesia, not only that the implementation of taxes that are only carried out on marketplace platforms will cause massive shifts (mass) entrepreneurs transacting on market place platforms to social media platforms.

Trading carried out by entrepreneurs on social media is not subject to income tax, the tax is actually a profit deduction element, so of course entrepreneurs will take any means to avoid taxes in maintaining profits from online trading, finally Minister of Finance Regulation Number 210 of 2018 was revoked by the Minister finance.

The absence of a level playing field (equality) in the implementation of income tax results in a gap in tax collection in meeting state revenues, even though the actual object of e-commerce taxation is income from online buying and selling transactions, as stated in Article 4 paragraph (1) of the Law Number 36 of 2008 concerning income tax, namely that the object of tax is income, namely any

additional economic capacity received or obtained by taxpayers, both originating from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the taxpayer concerned, in any name and in any form, so that when entrepreneurs on social media platforms earn income from online transactions but are not taxed, then this is what creates a non-level playing field or inequality in tax collection which has violated the principle of fairness in tax collection where taxes should be general.

2. METHOD

In carrying out this research, researchers used research methods to obtain research data in answering problems that occur in society, which consist of types of research, research approaches, types of data, data collection methods, data processing methods, data analysis methods, and writing techniques, namely: The type of research used in this thesis is qualitative research, namely research conducted by examining literature or secondary data only, to understand the relationship between legal sciences and positive law. Research must always be harmonized with legal discipline, which is a system of teaching about law as a norm and reality.

In this study, researchers examined the rules in the field of taxation to be associated with aspects of trade transactions through social media. The approach to this research is a normative approach, namely research conducted by examining the norms or rules that apply in society, and become a reference for everyone's behavior. Normative legal research is also called theoretical/dogmatic legal research. On the other hand, normative legal research functions to provide juridical arguments when there is a void, ambiguity, and conflict of norms.

Normative/doctrinal research is research that provides a systematic explanation of the rules governing a particular legal category, analyzes the relationship between regulations explaining areas of difficulty and possibly predicting future development. The focus of normative law studies in this thesis is an inventory of positive laws with a statutory approach approach), considering that researchers are trying to analyze several laws and regulations as a focus of research and then strengthened by data obtained from interviews.

Researchers in conducting this research used library study data collection methods, in normative legal research, library materials constitute basic data. Data collection was carried out by collecting library materials in the form of legal documents such as statutory provisions in the field of taxation and transactions collected from interviews and laws and regulations documents, qualitative data analysis in this thesis was carried out using an interactive model consisting of 3 (three) analytical activities, namely data reduction, data presentation and drawing conclusions. Data reduction is the process of simplifying data to select data that is relevant to the research theme, data presentation is the compilation of data that has been simplified to display the current situation and steps that must be taken, drawing conclusions/verification is the result of data collection by looking for the meaning of the data presented. has been displayed which is part of the complete configuration, these conclusions are also verified during the research because the meanings displayed as data must be tested for validity.

3. RESULTS AND DISCUSSION

In Electronic commerce or electronic commerce (e-commerce) is everything that includes trade/business transactions using information and communication technology, however, over time, the definition of e-commerce has expanded. The current definition of e-commerce is not only interpreted as sales and purchases through electronic systems or the internet, but also includes services for online buyers and the exchange of business documents.

An entrepreneur conducts buying and selling transactions through an electronic system because electronic commerce (e-commerce) has convenience and freedom, e-commerce transactions have several advantages, including being able to expand the network of business partners, marketing reach becomes wider, transactions are physically safe, effective, efficient, and flexible. Companies can get closer to consumers, where buyers and sellers in electronic trading transactions seem to have a close distance.

Expansion of the business partner network With the existence of an electronic network that facilitates partners in conducting cooperation, this e-commerce makes it easy to enter into cooperation with parties who will help market the goods and or services to be sold.

In addition to these advantages, trade transactions through the electronic system are also used by entrepreneurs to avoid paying tax obligations, this happens because e-commerce transactions have several specific criteria that give rise to complex tax implications, for example in terms of supervision where the tax authority has difficulty knowing the number of e-commerce actors and the nominal amount of e-commerce transactions, so that it has an impact on taxes.

But unfortunately, this regulation only requires traders/entrepreneurs who deliver goods and/or services through a marketplace platform provider that is expressly determined to carry out their income tax obligations as stated in Article 4 of Minister of Finance Regulation Number 210 of 2018, namely "Traders or Service Providers who deliver goods and/or services electronically (e-commerce) through Marketplace Platform Providers as referred to in Article 3 carry out Income Tax obligations in accordance with statutory provisions in the field of Income Tax.

" The article only requires and alludes to tax treatment for traders on marketplace platforms even though in Article 3 of the Minister of Finance Regulation Number 210 of 2018, it is explained in paragraph (1) that "(1) Trading through electronic systems (e-commerce) of goods and/or or services in the Customs Area can be done through:

3.1 Mechanism of Buying and Selling Transactions on Social Media

Social media can be used for various things, including as a medium for disseminating information, media for social interaction, and media for buying and selling businesses, according to Haryotono's research using social media as a means of exchanging information and social interaction is an effective step because with social media information is found quickly and interaction between users is not limited to individuals but also interactions between groups.

Based on the researcher's interview with Nova Dwi Atmaja as Representative of the tax regulation directorate II, which acts as a sub-directorate of personal income tax collection and withholding, Social media is actually designed for a means of exchanging information but in reality it is used massively for buying and selling online, the people themselves use it to sell. The meaning of buying and selling according to Article 1457 of the Civil Code is an agreement in which one party binds itself to surrender an item and the other party pays the price that has been promised.

Meanwhile, according to Abdulkadir Muhammad, a sale and purchase agreement is an agreement between two or more parties in which the seller transfers the property rights of the goods owned to the buyer, then the buyer pays an agreed amount of money in return which is called the price. Price The price in the sale and purchase agreement is an amount that must be paid in accordance with the agreed value in the form of money. Payment of prices in the form of money is an element in buying and selling. For the reciprocal relationship in the form of goods handed over by the entrepreneur to the consumer, and the nominal money according to the price paid by the consumer to the entrepreneur, there is a picture of the income earned by the entrepreneur from buying and selling transactions on social media.

3.2 Enforcement of Income Tax on Entrepreneurs Who Make Buying and Selling Transactions on Social Media

According to the Official, the definition of an income tax object is any additional economic capacity received or obtained by a Taxpayer (WP), both originating from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the taxpayer in question in name and in any shape.

Based on the researcher's interview with Nova Dwi Atmaja as Representative of the tax regulation directorate II, which acts as a sub-directorate of personal income tax collection and withholding, buying and selling transactions on social media need to collect income tax because to create a level playing field, So equal treatment because taxes in principle must be the same meaning that anyone who earns income in Indonesia in accordance with tax provisions must be taxed. With whatever scheme the buying and selling is and earning income, with the taxation system that applies in Indonesia (self-assessment) the income received by business actors is basically all taxed, because in principle it doesn't look at who gets the income but it's fair unless the law states differently.

Taxpayers must pay taxes when they have received or obtained tax objects as stipulated in Article 12 paragraph (1) of the Tax General Provisions Law Number 28 of 2007 which states that Taxpayers are obliged to pay the tax owed in accordance with the provisions of the tax laws and

regulations by does not depend on the existence of a tax assessment letter, meaning that with a self-assessment system, the taxpayer must pay the tax payable without a tax assessment letter first.

3.3 Collection of Income Tax Against Entrepreneurs Who Conduct Sale and Purchase Transactions on Social Media In View of Law Number 36 of 2008 concerning Income Tax

Buying and selling transactions in Indonesia have become a common habit and are carried out repeatedly, of course this is a breath of fresh air for entrepreneurs who carry out buying and selling businesses both conventionally and online. Seeing the existence of conventional entrepreneurs and online entrepreneurs, in fact there are similarities between the two, namely the similarity in earning income from a business, the similarity in buying and selling, the similarity in having business profits, but from these similarities it has not been accompanied by a balanced tax target to online entrepreneurs on social media where there is no similarity in imposing income tax or monitoring tax obligations for entrepreneurs who buy and sell on social media, even though based on 2019 paxel buy & send insights research, the social media platforms most frequently used to carry out buying and selling businesses are WhatsApp (84%), Instagram (81%), and Facebook (36%), meaning that with the percentage of social media most frequently used, social media platforms are more favored by entrepreneurs to selling rather than selling on the marketplace. Based on the researcher's interview with lin Novianti as one of the sellers on social media, the entrepreneur has not paid income tax on income earned from sales on social media because he does not know that income earned through sales on social media needs to be paid tax according to the entrepreneur's view. there is no tax like online sales tax, so all he knows is personal fixed income, only personal accounts must be reported,

In taxation, there is an object or target of taxation which includes circumstances, events and actions committed by the tax subject which according to the law the tax object has fulfilled the requirements to be taxed; Circumstances Circumstances can become objects of taxation When according to law these circumstances qualify as circumstances that must be taxed, for example a person who is in a state of earning income in certain amounts and conditions can become the target or object of taxation; Events Events that occur among the public can become the object of income tax, for example the event of death, then from the event of death resulting in the transfer of assets from a person who has died to an heir or inheritance, if what is inherited is like a motorized vehicle then the heirs may be subject to motorized vehicle transfer tax (BBNKB); Deeds Actions committed by the public can become objects of tax or targets of taxation when they meet the requirements. For example, the act of someone who enters into a written agreement with another party that contains a nominal amount of money, the act of making an agreement document that contains a certain amount of currency is subject to tax in the form of stamp duty.

There is a layer of taxable income described in Article 17 paragraph (1) of the Income Tax Law, the tax rates applied to the taxable income for domestic individual taxpayers are as follows:

Table 1. Income percentage prices compared to tax rates

no	Income	Tax rates
1	Income up to IDR 50,000,000.00 (fifty million rupiah)	5% (five percent)
2	Income above IDR 50,000,000.00 (fifty million rupiah) up to IDR 250,000,000.00 (two hundred and fifty million rupiah)	15% (fifteen percent)
3	Income above IDR 250,000,000.00 (two hundred and fifty million rupiah) up to IDR 500,000,000.00 (five hundred million rupiah)	25% (twenty five percent)
4	Income above IDR 500,000,000.00 (five hundred million rupiah)	30 % (thirty percent)

With regard to how and when the tax debt that must be paid by the taxpayer is born, there are material teachings and formal teachings, based on material teachings the tax debt arises automatically, meaning that when it has been determined by law the obligation to pay taxes and the subject and object conditions have been fulfilled, then "by itself" a tax debt arises without the need for action from a tax official to issue a tax assessment letter first, then according to formal teachings, a tax debt arises because of a law and a tax assessment letter has been issued by the director general of taxes so long as there is no tax assessment letter then the tax debt does not yet exist, even though the terms and objects have been fulfilled by the taxpayer.¹⁴ so that in this case the collection of income tax on entrepreneurs who carry out buying and selling transactions on social media based on the material teachings of income obtained from buying and selling transactions on

social media creates a tax debt that arises by itself, meaning that taxpayers must pay tax obligations independently of the acquisition income earned.

4. CONCLUSION

By imposing general anti-tax evasion provisions in Article 4 and Article 17 paragraph (1) of Law No. 36 of 2008 concerning Income Tax for income of more than 4.8 billion Rupiah per year while for a total nominal income of not more than 4.8 billion rupiah per year using the provisions of gross circulation at a rate of 0.5 percent contained in Article 2 of Government Regulation No. 23 of 2018, and supported by supervision through the National Payment Gateway (GPN). 5 percent contained in Article 2 of Government Regulation No. 23 of 2018, and supported by supervision through the National Payment Gateway (GPN). 5 percent contained in Article 2 of Government Regulation No. 23 of 2018, and supported by supervision through the National Payment Gateway (GPN).

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Based on the conclusions above, the recommendations that researchers can give regarding the imposition of income tax on entrepreneurs who make buying and selling transactions through social media are as follows: Lawmakers can make rules for collecting income tax on electronic commerce (Ecommerce) transactions that are comprehensive and not targeting certain online buying and selling platforms; The Minister of Finance and the Directorate General of Taxes make technical rules and guidelines for collecting income tax for entrepreneurs who make buying and selling transactions via social media; The Directorate General of Taxes cooperates with social media providers to obtain data on accounts used by entrepreneurs to make buying and selling transactions on social media; Require entrepreneurs who carry out buying and selling transactions via social media to use a business account, and have a Taxpayer Identification Number (NPWP) and business license as the legality of online entrepreneurs; Requiring all banks to use the payment traffic of the National Payment Gateway (GPN), so that the National Payment Gateway is not only used by certain banks and the existence of payment traffic from online buying and selling transactions can be detected.

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