

Influence of the Organization for Economic Co-operation and Development Policy on Electronic Based Collection of Value Added Tax at Tax Office in the Medan Region for 2020-2021

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DOI: 10.29322/IJSRP.13.04.2023.p13614

<http://dx.doi.org/10.29322/IJSRP.13.04.2023.p13614>

Paper Received Date: 15th February 2023

Paper Acceptance Date: 27th March 2023

Paper Publication Date: 6th April 2023

Abstract :

During the COVID-19 pandemic, the Indonesian government enforced several tax policies, including the implementation of tax treatments for E-Commerce activities (PMSE). This research aimed to evaluate and analyze the VAT collection for intangible goods and/or taxable services from outside the customs zone in the customs zone through electronic commerce, alignment of Indonesian PMSE and Minister of Finance Regulation No. 48/PMK.03/2020 with OECD policies, and barriers to VAT collection through an electronic system.

The research used a qualitative-descriptive approach for its method using two theories, namely Planned Behavior and Tax Collection theories. The research informants were selected using a purposive sampling technique, and data were collected through interviews, observations, and documentation. The data was analyzed using Miles' and Huberman's interactive model, which includes the following steps: data collection, condensation, presentation, and conclusion.

The research showed the following results: 1) the VAT collection for intangible goods and/or taxable services traded from outside the customs zone in the customs zone through the electronic system in Medan Area in 2020-2021 has been effective. Since the government implements an even-handed e-commerce tax regulation, there is no difference in the treatments of conventional with digital business players; 2) The Indonesian PMSE policy and Minister of Finance Regulation No. 48/PMK.03/2020 are aligned with the OECD; 3) the barriers identified are the internal factor of using the facility within the digital tax administration system, tax compliance of the foreign business taxpayers, and the role of Digital Tax policy. As for the external barriers, the research identified the threat of conducting business with other countries and tax manipulation.

Keywords: Collection, VAT, PMSE, OECD policy, KPP

I. Introduction

As one of the highest contributor for a Nation's income, tax policies should be monitored and evaluated in order to achieve the budget that has been set by the policy makers. Value Added Tax is consumption tax of goods and services, which is applied to every supply chain in production and distribution process.

Therefore, policy makers have created a better policies to ensure that target income from VAT could be achieved. From 2018 to 2020, there was an increase of 15.7% or equivalent to 150 Trillion Rupiah government income from VAT. However, this uptrend was still perceived insufficient as many actors who import of goods and services from abroad try to avoid the application of VAT. In addition, a significant portion of e-commerce transactions were dominated by intangible goods, where jurisdiction of the VAT application becomes unclear.

II. Literature Review

A. E-commerce

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E-commerce is trade process of services or products between two parties via the internet. It has shifted from the conventional style of trade and focused on individual-based business transactions using the internet as a medium for exchanging goods or services both between agencies or individuals with agencies. According to Kotler (2012), there are four major e-commerce types, including Business to business (B2B), Business to consumer (B2C), Consumer to Consumer (C2C) and Consumer to Business (C2B)..

Many previous researched has emphasized on VAT collection on e-commerce transactions and its online tax collection. This paper similarly will further discuss the VAT collection on e-commerce transactions with the focus on Tax Office in Medan Region for the year 2020 – 2021.

B. Value Added Tax on E-Commerce Transaction

As our world become more global and there is prediction that e-commerce will eventually replace traditional market, this loophole is becoming wider. Insufficient tax knowledge of online traders, which is shown by the minimal number of online sellers with Tax Identification Number will further hinder the target achievement of VAT. Thus, the Ministry of Finance has issued PMK No.210/PMK.010/2018 Tax Policy for e-commerce transaction (PMSE) to overcome this issue. Nevertheless, the Covid-19 Pandemic and public rejection had obstructed this policy and as a replacement Perppu Nomor 1 Tahun 2020 was enforced.

According to Darussalam et. al (2018), VAT for PMSE was not a new tax policy. It has been introduced in 1988 and emphasized in Circular Letter SE-62/PJ/2013 regarding Confirmation of Tax Provisions on E-Commerce Transactions and Circular Letter SE-06/PJ/2015 tentang Withholding and/or Collection of Income Tax on E-Commerce Transactions.

One of the major obstacles in applying VAT to foreign giant corporations including Netflix, Spotify, Zoom, AirBNB, Amazon is concept of physical existence of permanent establishment in Indonesia Jurisdiction. Without physical existence of permanent establishment, these corporations could argue that they do not have tax obligations in Indonesia.

Guglyuvatyy and Milogolov (2021) argued that one of the keys to overcoming this problem is to adjust tax regulations to current global conditions by expanding the determination of Permanent Establishment not merely on its physical existence but based on a significant economic presence (Bahtiar 2020, 15).

This researched aims to analyze the following issues including the effectiveness of VAT on intangible goods and/or taxable services from jurisdiction outside the customs area, the alignment of Minister of Finance Regulation PMK No.48/PMK.03/2020 with OECD policies, potential barriers in collecting VAT through an electronic system and suggestion to overcome such barriers.

C. Collection of Value Added Tax

As an indirect tax, the basis for VAT imposition is the level of people's consumption. This tax is imposed on entrepreneurs who deliver goods or services to consumers, so that entrepreneurs who deliver goods or services will take the tax into account in the selling price.

Some of the advantages of VAT includes prevention of double taxation, neutral for local and international trade, VAT on the acquisition of capital goods can be recovered in the month of acquisition and the significant source of the nation's income. Nevertheless, some of the drawbacks includes high administrative costs, can cause a regressive impact, and is vulnerable to tax evasion.

1. VAT Collection Theory

In this research, VAT collection was analyzed through the theory of planned behaviour and theory of absolute tax collection.

Theory of Planned Behaviour

According to Wikamorys & Rochmach (2017), theory of planned behavior works by estimating a person's behavior. The two main assumptions for assessing a person's intention to behave are attitude towards behavior and subjective norm. Similarly, Ajzen (2012) added perceived behavioral control, which is influence by past events and others experience, to predict an individual's intention to perform a particular behavior.

Theory of Tax Collection

Theory of Interest

This theory measures the amount of tax according to the size of the protected taxpayer's interests. Thus, the greater the protected interest, the greater the tax that must be paid (Soemitro, 1992 in Purnomo, Atmoko & Hakim, 2022:19).

Theory of Absolute Tax Obligation / Dedication

This theory stated that citizens pay taxes to show devotion to the state in where they reside. Pudyatmono (2009) added that there are four principles of tax collection, including equality, certainty (i.e. tax subject, tax object, rates and other tax provisions), convenience of payment and efficient.

D. OECD Policy on Consumption Tax

OECD (2008) recommends that consumption tax (VAT/GST) be charged at all stages of the economic process while still referring to the invoice-credit method whereby companies can credit taxes paid on the purchase of their own goods and services (input tax) against the tax payable on the sale of goods and services (output tax).

Due to the legal uncertainty in tax imposition of cross-border shipments, the OECD issued the OECD International VAT/GST Guidelines (2017) as guidelines that can be used by a country in determining the consumption tax treatment of goods and/or services. For consumption tax policies on across countries delivery, OECD guidelines emphasized the principles of neutrality, efficiency, legal security, equity and flexibility.

The neutrality concept was further discussed to minimize unhealthy competition between international and domestic sellers by applying single tariff for consumption tax except for the USA and Canada. The guidelines also set the concept of consumption jurisdiction is to avoid the possibilities of double taxation.

III. Methodology of Research

The research used a qualitative-descriptive approach and focused on the introduction of tax policies on PMSE with OECD policies, using two theories mentioned above.

Informants for this research were selected using a purposive sampling technique, and data were collected through interviews, observations, and documentation. Collected data were analyzed using Miles' and Huberman's interactive model, which steps including data collection, condensation, presentation, and conclusion. After data analysis, data validity is performed using four criteria, namely credibility, transferability, dependability and confirmability.

Research was commenced in July 2022 until October 2022 and the research was completed in 2023.

IV. Evaluation

A. The effectiveness of VAT on intangible goods and/or taxable services from jurisdiction outside the customs area.

The imposition of VAT on the use of digital products from abroad is part of the government's efforts to create a fair basis for all business actors, especially between domestic and foreign players, as well as between conventional businesses and digital businesses. Based on the research, the effectiveness of VAT on intangible goods and or taxable services is analyzed through the following factors:

i. Commencement

Based on interviews, the researchers concluded that implementation of VAT collection on online transactions has been started. E-commerce models that are subject to VAT include: Online Marketplace, Classified Ads, Daily Deals and Online Retail.

ii. PMSE VAT Collectors

The e-commerce VAT collectors including business actors such as, foreign traders, foreign service providers, overseas e-commerce organizers and/or domestic e-commerce operators who have been appointed by the Minister of Finance as PMSE VAT collectors. The transactions include Business-to-Business (B2B) and Business-to-Consumer (B2C). In the recent VAT regulations, certain criteria to be included as e-commerce VAT collectors including:

- a. The value of transactions with buyers in Indonesia exceeds IDR 600 million in a year or IDR 50 million in a month; and/or
- b. The number of traffic or access in Indonesia exceeds 12,000 in a year or 1,000 in a month.

iii. Order of PMSE VAT Collection

The Directorate General of Taxes (DGT) of the Ministry of Finance is responsible to set the order of PMSE VAT Collection. DGT is also responsible for formulating and implementing policies and technical standardization in the field of taxation. The designated marketplaces that have been appointed by DGT for this issue including Tokopedia, Bukalapak, PT Ecart Webportal Indonesia (Lazada), PT Fashion Eservices Indonesia (Zalora), PT Global Digital Niaga (Blibli.com), Cleverbridge AG Corporation, Hewlett-Packard Enterprise USA, Softlayer Dutch Holdings B.V. (IBM), Valve Corporation (Steam), beIN Sports Asia Pte Limited (*).

iv. Application and Rate

Starting from December 1, 2020, sellers or business actors in e-Commerce have been required to collect VAT on e-Commerce transactions on the products they sell to other business/customers. The VAT rate is 10% of the product price before tax and the

sellers are required to state the VAT in the tax invoice. According to Harmonization of Tax Regulation Law Nomor 7 Tahun 2021, starting from April 1, 2022, the DGT has increased the VAT rate for all VAT subjected transactions. The new applicable VAT rate is 11%.

v. Types of e-commerce goods/services subject to VAT

The e-commerce goods/services subject to VAT includes Digital Goods and/or Digital Services, from outside the customs area into the customs area through e-commerce transactions. Digital Goods are any intangible goods in the form of electronic information or digital includes goods which are the result of conversion or transformation as well as goods which are originally in electronic form, including but not limited to software, multimedia, and/or electronic data. Digital Services are services sent via the internet or electronic networks that are automatic or involve little human intervention, and it is impossible to ensure this without information technology, including but not limited to software-based services.

vi. Tax Basis

The VAT Law article 1 number 17 states that the process of collecting VAT for intangible goods through an electronic system based on the delivery or sales of taxable goods or services to buyers. Therefore, the amount of VAT is calculated based on the total selling price. The amount of the VAT-output is then withheld by the seller at the time of payment confirmation and or issuance of sales invoice.

vii. Time of Payable

VAT is payable at the time of delivery of Taxable Goods for transactions that are cash on delivery or when payment is received by the shop for purchases of Taxable Goods for transactions that are non-cash delivery.

viii. Proof of Tax Payment

Irrespective of the process of transactions, in all trading processes, both online and conventional, the sellers or providers require to issue a written evidence to the buyers in the form of sales tax invoice. The sales invoice is made after sellers deliver or ship the goods or after payment for the goods has been made. It is common that the sales invoice is given to the buyer (end consumer) altogether with the goods.

ix. Tax Submitted to DGT

VAT is deposited no later than the end of the following month after the tax period ends and uses Rupiah, United States Dollars, or other foreign currencies stipulated by the Director General of Taxes.

x. Periodic Tax Returns

The marketplace platform provider is required to report the recapitulation of trade transactions carried out by traders and/or service providers through the marketplace platform provider to the Directorate General of Taxes and must be attached to the VAT Periodic Tax Return (SPT) of the marketplace platform provider. PMSE VAT collectors are required to submit quarterly reports for 3 (three) tax periods. This report is submitted no later than the end of the following month after the quarterly period ends. The quarterly periods in a year are divided as follows:

1. Quarter I: January to March
2. Quarter II: April to June
3. Quarter III: July to September
4. Quarter IV: October to December

This reporting obligation also remains valid even if the amount of VAT collected in the relevant quarterly period is nil.

xi. Degree of effectiveness

The application of regulations in the field of e-commerce tax was carried out fairly (even-handed) for the imposition of tax rates on every electronic transaction (e-commerce). In this case the playing fields are equalized, so that there is no gap between conventional business actors and digital business actors. For this reason, the philosophy of implementing e-commerce tax rules is that both conventional and electronic business actors are able to understand their tax obligations, especially those related to Value Added Tax (VAT).

B. The alignment of PMK No.48/PMK.03/2020 with OECD policies

Some countries including Japan, Australia and the European Union has adopted VAT on intangible goods/services as early as 2014. Compared to these countries, the commencement of VAT on e-commerce trades is a bit behind.

Despite that, based on the research and degree of effectiveness sets out in 3.a, the application of PMSE VAT was in accordance with the global consensus announced by the Organization for Economic Co-operation and Development (OECD). Many interviewees in these research were in agreement that the effectiveness have been helped by the Regulatory Impact Assessment (RIA). RIA is a fundamental tool to assist the Government in assessing the impact of new regulations. In increasing regulatory

efficiency, transparency and accountability in decision-making, RIA has been used as the main tool that has been practiced in OECD member countries and the European Union.

One major difference between Indonesia policy to other OECD members or contributors are the rate applied for the VAT collection:

- Indonesia: 11% multiplied by tax base
- France, Italy and Spain: 3% of transaction value
- Austria: 5% of transaction value
- India: 6% of transaction value
- Uruguay: 12% of transaction value
- Hungary and Turkey: 7.5% of transaction value
- England: 30% on the basis of diverted profit tax
- Australia: 40% of redirected profit

Although there is difference in the application of VAT rate for each country, the application of VAT for e-commerce in Indonesia, have perceived as fair and in alignment to the OECD consensus.

C. Potential barriers in collecting VAT through an electronic system

Some potential barriers in collecting VAT on intangible goods through the electronic system are:

- a. Potential loss on tax revenue
As it is newly implemented, the improperness of imposition of VAT on e-commerce transactions could lead to potential tax loss.
- b. Hesitation because of increased prices and lack of competitiveness
Many actors focus to stay competitive and reluctant to charge VAT on online business transactions.
- c. Hesitation from foreign corporations
The eagerness of foreign digital business actors to enter the tax administrative system such as to be appointed as VAT collectors and depositors for Digital Tax/PMSE depends largely on the role of DGT.
- d. Assurance of tax compliance
It is necessary for DGT to ensure tax compliance of those corporations that have been appointed as VAT collectors and depositors on e-commerce.
- e. Alignment of VAT policy and Income tax
The imposition of VAT on e-commerce could increase the cost of investment in Indonesia. Thus, the foreign investors are more attracted to lower tax countries or tax heaven countries. This condition could lead to a lower income tax collected by the government.

In addition, some internal and external factor may hinder the collection of intangible goods through the electronic system including digital tax system, tax system security and decrease of investment from foreign countries.

To ensure the maximization of VAT collection on intangible goods and/or taxable services, some remedies should be put in place to ensure that potential barriers do not cause a detrimental impact.

Some efforts that can be performed by the DGT in order to resolve obstacles in terms of policy and technical field in collecting VAT on intangible goods through electronic systems, including:

- a. Provide counseling to raise public awareness about taxation of online transactions
- b. Create a balance between rights and obligations for online businesses to attract compliance to tax policies
- c. Provide strict sanctions to businesses that avoid taxes especially VAT on sales
- d. Ensure a balance between compliance costs, information requirements and compliance verification needs
- e. Develop strong cooperation with overseas e-business which directly related to intangible taxable goods/services through Digital Tax/PMSE to build a Digital Tax/PMSE database
- f. Raise awareness on tax planning that does not violate tax regulations, makes business sense, and attaches valid evidence.

V. Conclusion

After a thorough analysis on the collection of VAT e-commerce and its relation to OECD policy at Tax Office in the Medan Region for 2020-2021, the following conclusions are drawn:

1. The imposition of VAT collection on intangible goods and/or taxable services has been fairly implemented in Medan Region. There is no significant difference between the collection of VAT for conventional business and digital transaction. Thus, it is expected that the compliance of VAT collection can be maximized nationally.
2. Indonesia's VAT policy on intangible goods - PMK No.48/PMK.03/2020 is in accordance with OECD policies.

3. There are potential barriers in imposition of VAT through the electronic system that should be analyzed and controlled to increase compliance to taxes especially in Medan Region.

4. The DGT plays a major role in making a preventative or correctional actions to avoid potential VAT avoidance and resolve current issues. In addition, the Government of Indonesia must be globally aware of foreign and global policies in order to create a fair play for domestic and international businesses not only for VAT but also for Income Tax and others.

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