

The Legal Framework of E-Commerce Taxation in Indonesia and Singapore

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ABSTRACT

The aim of this research is to conduct a comparative analysis of the regulation and implementation of e-commerce taxation rules in each country, as measured through their impact on the economies of these nations. This study employs a normative juridical approach. The findings indicate that Indonesia could benefit from learning from Singapore, one of the leading Asian countries in terms of economic growth derived from the e-commerce sector. This serves as evidence of the success of implementing taxation regulations and legal frameworks related to e-commerce in Singapore. Minister of Finance Regulation Number 60 of 2022 (PMK Number 60/2022) represents a strategic step in regulating e-commerce taxation in Indonesia, granting the government the authority to establish order, fairness, and sustainable economic growth in the digital era. In response to the challenges presented by e-commerce, Singapore has made adjustments to its taxation regulations, even though there are no specific provisions in place for the digital economy. The guidelines issued by the Inland Revenue Authority of Singapore (IRAS) serve as crucial reference points for determining tax obligations in e-commerce transactions, taking into account factors such as production location and website hosting.

Keywords	E-commerce; Tax Regulation; Economy
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Manuscript History: <u>Received:</u> 2024-01-16 <u>Accepted:</u> 2024-03-12 <u>Corresponding Author:</u> Grace Angela Abao, 2051052.grace@uib.edu	 Legal Spirit is Licensed under a Creative Commons Attribution-ShareAlike 4.0 International License Indexed:     Layout Version: V8.2024

INTRODUCTION

Taxes play an exceptionally vital role for a nation, particularly for developing countries like Indonesia, in order to facilitate state development (Disemadi & Delvin, 2021). According to the Republic of Indonesia Law Number 28 of 2007 concerning General Provisions and Taxation Procedures, Article 1, paragraph (1) explains that taxes constitute a mandatory and compulsory contribution from every citizen, both individuals and entities, and their purpose is to promote the welfare of the people. As of December 14, 2022, the Indonesian Ministry of Finance reported that the second-largest source of revenue for the country comes from taxation, amounting to IDR 1,634.36 trillion (Susanti, 2022). Tax revenue from the trade sector holds the second-largest contribution after the manufacturing

sector, accounting for 24.8 percent of the total tax revenue (Ministry of Finance, November 24, 2022). Tax revenue from the trade sector is divided into two categories: traditional trade and online trade, also known as e-commerce (Pudjisaputro, 2020). Trade is an economic activity that connects producers and consumers through an available market mechanism (Yunita, 2018). It involves the exchange of goods and services, whether within or outside the country (Pramono & Azis, 2020). In essence, this implies that in a trading system, there are distribution and transaction activities between producers and consumers, which can occur both domestically and internationally. In traditional trade, transactions between sellers and buyers happen directly or face to face, limiting the geographical and temporal scope of trade across regions and countries (Rakanita, 2019). The advancement of information technology has given rise to the e-commerce system, enabling trade transactions through electronic devices and technology utilization. This allows for swift and efficient cross-border and inter-regional trade. E-commerce technology, available in the form of applications such as e-banking, Shopee, and other social media platforms, provides convenience for anyone to access and conduct online trade transactions (Harahap, 2018).

In the era of globalization, particularly since the Covid-19 pandemic, people have increasingly turned to e-commerce due to the availability of adequate technology and information compared to traditional trade systems (Era Purike et al., 2022). The pandemic situation has compelled traders to innovate their economic activities by utilizing e-commerce platforms, which are preferred by the public because they transcend spatial and temporal limitations and have lower output costs (Andriana, 2018). This is evident from the significant growth in internet users in Indonesia, numbering around eight million since the beginning of 2020 until 2021, and an increase in the number of micro, small, and medium-sized enterprises (MSMEs) across various sectors, totaling approximately one million individuals, as of the end of 2020 to March 2021 (Hamza & Agustien, 2019). The development of e-commerce in Indonesia has provided opportunities for people from various backgrounds to establish various types of Micro, Small, and Medium-sized Enterprises (MSMEs) and boost the country's economy (R. C. K. Dewi, 2020). In 2019, e-commerce revenue in Indonesia reached US\$6 billion and is projected to grow by 18 percent in the future, contributing up to US\$35 billion to the GDP (Abdurrozaq et al., 2023). However, behind the economic growth of e-commerce in Indonesia, according to data from the Organization for Economic Co-operation and Development (OECD, 2021), tax revenue in Indonesia in 2019 was below the average percentage, standing at 11.6% compared to the average of 33.8% (Ramadani et al., 2023). Indonesia ranks fifth out of ten countries with the highest e-commerce transaction volumes, accounting for 20.2%, while China holds the top position with 46.3% (Lidwina, 2022). The United Nations Conference on Trade and Development (UNCTAD) is an international organization that assesses a country's readiness in terms of economic, trade, and investment development (Aini, 2020). According to UNCTAD data in 2020, Indonesia does not rank among the top ten countries with the best e-commerce economies, despite being the fifth country in terms of e-commerce transactions. This ranking is based on UNCTAD's analysis of social networking, marketplace, video sharing, payment systems, and search engines (Putri & Zakaria, 2020).

In light of the rapid growth of e-commerce transactions in Indonesia, the government must be able to establish adequate tax regulations, particularly regarding the procedure for collecting e-commerce taxes, which can be imposed fairly on every e-commerce taxpayer (Rachmasariningrum, 2020). The most widely used form of e-commerce in Indonesia is Business to Consumer (B2C) through online shopping platforms such as Shopee and Tokopedia (Dhaneswara & Melani, 2021). With the proliferation of B2C e-commerce operators in Indonesia, the government has issued Regulation of the Minister of Finance of the Republic of Indonesia Number 60/PMK.03/2022 concerning the Appointment of Collectors, Collection, Deposit, and Reporting of Value Added Tax on the Utilization of

Taxable Goods (BKP) Not in the Form of Tangible Goods and/or Taxable Services (JKP) from Outside the Customs Area within the Customs Area Through Electronic Trading, hereinafter referred to as Regulation Number 60/PMK.03/2022. Regulation Number 60/PMK.03/2022 replaces a previous regulation, namely Regulation Number 48/PMK.03/2020, as stated by Minister Sri Mulyani, the old regulation is no longer valid due to creating ambiguity. According to a study conducted in 2023, the implementation of Regulation Number 60/PMK.03/2022 still generates controversy due to certain aspects that remain unregulated and deficiencies in the regulation, including discriminatory tax treatment of e-commerce operators between domestic and foreign entities, the absence of an institution or alternative mechanism responsible for ensuring taxpayer compliance, and the availability of transparent distribution data on tax utilization to the general public (Ramadani et al., 2023). These issues need to be further addressed to minimize tax avoidance practices and boost the country's economy.

In contrast, Singapore, as one of the Southeast Asian countries, managed to secure the 3rd position for having the best e-commerce economy in 2019, as recorded in the UNCTAD B2C E-commerce Index 2020. Singapore implements a tax regulation system known as the Goods and Services Tax (GST), where it applies equitable tax treatment to every B2C e-commerce trader, whether domestic or foreign, with equal standing due to the existence of the Overseas Vendor Registration (OVR) regulation. Additionally, Singapore has the E-NETS facility, which functions to record all transaction data in e-commerce that occurs in Singapore, providing legal certainty for all taxpayers regarding all tax objects, whether pending or already paid. This research is based on previous studies, including research on the comparison of B2C e-commerce taxation between Indonesia and Singapore, which examines the comparison of tax regulation enforcement on e-commerce between Singapore and Indonesia using the juridical normative legal research method (Dhaneswara & Melani, 2021). The study focuses on the differences in the effectiveness of tax regulation enforcement on e-commerce trade between Indonesia and Singapore and examines the legal substance differences in both countries that affect a country's economic tax revenue growth. Additionally, there is an article analyzing the VAT policy on foreign digital service providers through regulatory impact assessment on Indonesian consumers. This research examines the mechanisms and regulations of taxation laws applied in Indonesia and compares e-commerce transaction taxation regulations in terms of policy substance, as well as tax data transparency and facilities for the public. This research focuses on the taxation regulations implemented by the Indonesian government to maximize the country's tax revenue potential (Ramadani et al., 2023). Therefore, the focus of this research is to analyze the e-commerce tax collection policies in Indonesia and Singapore, as well as the comparison of e-commerce tax laws between the two countries in order to stimulate the country's economy. Theoretically, this research serves as a reference for the implementation and effectiveness comparison of e-commerce tax laws in Indonesia and Singapore. Practically, this research can be used as an evaluation material for e-commerce tax regulations in Indonesia.

METHOD

This research employs a juridical-normative legal research method, also known as doctrinal research (Disemadi, 2022; Tan, 2021). Normative legal research is a legal investigation conducted by examining and analyzing literary materials consisting of legal regulations, both in terms of hierarchy (vertical) and the harmonious relationship of legal regulations (horizontal). The primary objective of normative legal research is to analyze the e-commerce tax regulations applicable in Indonesia and compare them with the e-commerce tax regulations in Singapore concerning their policies and the impact of implementing these tax regulations. The research approach utilized in this study involves a legislative approach and a conceptual approach. The data used in this research is secondary data, obtained indirectly. The legal materials used in this study consist of primary sources such as earlier

journals, literature reviews, and internet sources related to e-commerce tax regulations in Indonesia and Singapore. The research analysis is conducted descriptively and qualitatively.

RESULT AND DISCUSSION

The Regulation of E-commerce Taxation in Indonesia

In this context, the author delves into a comprehensive analysis of key aspects such as tax rates, taxable transaction types, and the mechanisms of tax collection in the e-commerce sector in Indonesia. However, this chapter goes beyond that, as it also conducts a comparative examination of Indonesia's e-commerce tax regulations with similar practices in Singapore. The goal here is to uncover both the similarities and differences in the efforts of these two nations to address the challenges of e-commerce taxation. All of these efforts are directed towards gaining a deeper understanding of the effectiveness of e-commerce tax laws within the economic development context and providing valuable insights for the evaluation and improvement of e-commerce tax policies in Indonesia.

The implementation of PMK Regulation No. 60/PMK.03/2022 regarding the Procedures for Appointing Collectors, Collection, Deposit, and Reporting of Value Added Tax (VAT) on the Utilization of Taxable Goods and/or Taxable Services from Outside the Customs Area within the Customs Area through Electronic Systems (E-commerce) is a significant milestone in regulating taxation in the Indonesian e-commerce sector. This regulation has far-reaching implications, impacting various stakeholders including e-commerce businesses, consumers, and the government (Muhammad Hamdan & Isnani Yuli Andini, 2022).

The introduction of Value Added Tax (VAT) in the e-commerce sector through Minister of Finance Regulation (PMK) Number 60/2022 is a crucial step in responding to the rapid growth of electronic commerce in Indonesia. This move reflects the government's response to changing consumer behavior, which is increasingly inclined towards online transactions, especially in the purchase of digital goods and services.

PMK essentially introduces VAT on taxable goods and/or taxable services obtained through electronic commerce (B. C. Dewi & Soelistyo, 2023). This encompasses various activities within the e-commerce ecosystem, such as the sale of digital products like e-books, music, and software, as well as online services like video streaming, e-learning, digital banking, and various other types of online services.

This step carries significant implications. First and foremost, it aims to establish tax fairness between traditional businesses and e-commerce enterprises. Previously, e-commerce businesses often escaped taxation, giving them an unfair advantage over physical businesses. Secondly, the introduction of VAT in e-commerce is expected to boost the country's tax revenue. The increasing number of online transactions subject to VAT can generate additional income for the government, which can be used to support various development programs and projects. Additionally, this move brings tax transparency to consumers. They can now clearly see the amount of tax imposed on their online purchases, increasing their awareness of the tax costs they need to pay. Finally, for e-commerce operators, especially platform owners, they must comply with these new tax regulations, including the collection, reporting, and remittance of VAT on transactions on their platforms. This creates additional challenges in managing their tax administration.

The introduction of Value Added Tax (VAT) in e-commerce through Regulation of the Minister of Finance (PMK) Number 60/2022 serves as a crucial milestone in establishing a clear legal framework for taxation in this sector, aligning with the evolving consumer behavior and transaction methods in the digital era. This development is instrumental in ensuring that e-commerce makes a full contribution to the national tax revenue and operates

within a fair business environment. The mechanism of appointing Value Added Tax collectors outlined in PMK Number 60/2022 is a pivotal aspect of e-commerce tax regulation in Indonesia. This regulation stipulates that owners of e-commerce platforms may be designated as VAT collectors by the Director General of Taxation provided they meet specific criteria. These criteria encompass achieving a certain transaction value or a significant user count within the past 12 months.

The implication of this step is the establishment of a more structured and measurable framework for determining who is responsible for collecting VAT from transactions occurring on e-commerce platforms. Furthermore, by setting out the criteria for becoming a VAT collector, PMK provides clear guidance for e-commerce platform owners. They can strive to meet these requirements and collaborate with the Director General of Taxation in the collection of VAT. Consequently, this measure can influence the extent to which players in the e-commerce sector are involved in managing taxation aspects, thereby contributing to more effective tax revenue collection by the government. Overall, the mechanism of appointing VAT collectors in PMK Number 60/2022 is an endeavor to instill order and compliance in the e-commerce sector with regards to taxation. It also offers incentives for e-commerce actors to adhere to the established criteria, helping to create a more structured tax ecosystem in the face of rapid electronic trade growth in Indonesia.

The establishment of Value Added Tax (VAT) rates in Regulation of the Minister of Finance (PMK) Number 60/2022 represents a strategic move in regulating taxation in the e-commerce sector in Indonesia. Initially setting the VAT rate at 11%, it is scheduled to be increased to 12% in accordance with the provisions of the VAT Law. This VAT rate determination has significant implications for various stakeholders, including e-commerce businesses, consumers, and the government. The initial lower VAT rate of 11% reflects the government's awareness of the need to stimulate the growth of the crucial e-commerce sector in the digital economy. The increase to 12% is a progressive step aimed at boosting state tax revenue. However, it may also affect consumers, who might have to pay more taxes on their purchases of goods and services through e-commerce platforms.

Furthermore, the establishment of this VAT rate reflects the government's commitment to creating tax fairness between physical businesses and e-commerce enterprises. By applying the same VAT rate to all types of transactions, the government ensures that e-commerce businesses do not enjoy unfair tax advantages over conventional businesses. Additionally, the regulation of VAT rates provides stability and clarity in e-commerce taxation, which is essential for business operators and investors, creating a predictable business environment that supports long-term growth in the e-commerce sector.

In the context of the continuously evolving e-commerce taxation landscape, the accurate and sustainable determination of VAT rates is a critical factor in managing a healthy and fair taxation ecosystem. The government must continue to monitor and evaluate the impact of these VAT rates on various stakeholders to ensure that the regulation functions effectively and aligns with developments in the e-commerce industry.

The provisions related to VAT payment and reporting in Regulation of the Minister of Finance (PMK) Number 60/2022 are integral to the government's efforts to regulate taxation in the e-commerce sector in Indonesia. In the pursuit of increasing tax revenue and achieving tax fairness in the e-commerce sector, compliance with these VAT payment and reporting provisions is crucial. Additionally, the government needs to provide guidance and support to e-commerce businesses to ensure they can fulfill their tax obligations effectively without hindering the growth of this sector.

The impact of PMK (Government Regulation) No. 60/2022 on the government is twofold and has far-reaching implications for various stakeholders in the e-commerce sector. Firstly, it enhances the state's tax revenue by regulating Value Added Tax (VAT) on e-commerce transactions. Previously, a significant portion of e-commerce transactions may have been challenging to monitor and control from a taxation perspective. With the introduction of PMK No. 60/2022, the government now possesses a stronger legal framework to oversee and govern taxation activities within the e-commerce sector. This is anticipated to generate substantial additional income for the nation's coffers. Secondly, PMK No. 60/2022 fosters tax equity between conventional businesses and e-commerce enterprises, eliminating any disparities in tax obligations between these two sectors. This ensures a level playing field in terms of taxation, promoting fairness and preventing any undue advantages for one over the other. PMK No. 60/2022 has a broad and even-reaching impact on various stakeholders within the Indonesian e-commerce ecosystem. Its objectives include bolstering tax oversight and compliance, increasing tax revenue, and creating a more equitable business environment. While this regulation may impose additional costs on consumers and administrative burdens on e-commerce operators, it is expected to assist the government in collecting a larger and fairer share of tax revenue. This summary provides a comprehensive overview of how PMK No. 60/2022 affects different stakeholders within the Indonesian e-commerce landscape.

E-commerce Tax Regulation in Singapore

The history of taxation in Singapore can be traced back to 1948 when income tax was first introduced. However, its tax roots can actually be found as far back as the British Income Tax Act of 1918 (Ooi, 2023). This suggests that Singapore's tax laws existed long before the digital era. With the evolution of technology and business, Singapore's tax laws have undergone various changes and adaptations.

One of the most relevant aspects concerning e-commerce is how Singapore has addressed tax challenges arising from the internet and electronic trade. Currently, there are no specific provisions in Singapore's Income Tax Act that explicitly regulate digital economy taxation. Instead, existing tax laws are applied to determine tax obligations arising from e-commerce transactions.

Guidance provided by the Inland Revenue Authority of Singapore (IRAS) through the e-Tax Guide is crucial in determining tax obligations in e-commerce transactions (Inland Revenue Authority of Singapore, 2019). Factors such as the source of income, location of goods production, presence of overseas branches, and web hosting location are primary considerations in determining the source of income from e-commerce activities. This guidance offers a general framework for businesses to determine their tax obligations in the digital context.

Furthermore, Singapore has adopted a specific legal regime to tax digital service imports through the Goods and Services Tax (GST). The Overseas Vendor Registration Regime (OVR) is a step taken to levy GST on foreign businesses providing digital services to customers in Singapore. Under the OVR framework, foreign vendors must ensure whether their services are provided to Singaporean customers and register if eligible. This system aims to achieve parity between local and international digital service providers. In this regard, Singapore is following the global trend in taxing e-commerce by levying taxes on the import of digital services. Singapore has also responded to changes in technology and business by amending the Goods and Services Tax Act to include electronic instruments, demonstrating its willingness to adapt to the changing times.

In addition, Singapore has chosen to focus on enhancing productivity through automation rather than imposing specific taxes on automation technology. This reflects a clear policy of maintaining high productivity levels and assisting displaced workers with support schemes and retraining programs. Regarding electronic instruments, Singapore has strived to treat transaction taxes equally, regardless of whether the transactions are conducted through electronic or physical instruments. This reflects an approach centered on tax equality in e-commerce.

Singapore has made efforts to address tax challenges arising from technological and digital economic developments. Guidance provided by tax authorities, changes in tax laws, and special regimes for e-commerce demonstrate the seriousness of the country in creating a legal framework that aligns with the times. Thus, Singapore has laid a strong foundation for addressing e-commerce tax issues in the future.

In the global context, Singapore has not only updated its domestic taxation but has also considered international approaches such as OECD BEPS 2.0 and UN Article 12B regarding e-commerce taxation. This indicates Singapore's desire to be at the forefront of addressing global taxation challenges arising from the digital economy.

Singapore has undergone a lengthy evolution in developing a tax system that is suitable for the advancements in technology and the digital economy. While it may not have specific provisions for e-commerce taxation in the Income Tax Act, Singapore provides guidance through the Inland Revenue Authority of Singapore (IRAS) to determine tax obligations in e-commerce transactions, with a focus on factors such as production location and website hosting. Specific measures like the Foreign Vendor Registration regime for taxing digital service imports also highlight Singapore's efforts to achieve equality between local and international digital service providers. Furthermore, the country follows global trends and engages in international initiatives such as OECD BEPS 2.0 and UN Article 12B, reaffirming its commitment to addressing global taxation challenges stemming from the digital economy. Overall, Singapore has built a solid foundation for tackling e-commerce taxation in the future by adapting its legal framework to the evolving times.

CONCLUSION

The Minister of Finance Regulation (PMK) Number 60/2022 introduces the Value Added Tax (VAT) as a crucial step in responding to the growth of electronic commerce. The initial VAT rate of 11%, set to increase to 12%, reflects the government's commitment to enhancing tax revenue and establishing tax fairness. Moreover, this PMK imposes significant responsibilities on e-commerce platform owners as VAT collectors, encompassing the collection, reporting, and remittance of VAT. This creates a clear and structured legal framework for managing tax aspects within e-commerce. While there are impacts on businesses and consumers in terms of costs and administration, this measure is expected to support equitable growth in the e-commerce sector and contribute significantly to the national tax revenue. Additionally, PMK 60/2022 fosters transparency for consumers regarding the tax costs they bear. Overall, PMK Number 60/2022 represents a strategic move in regulating e-commerce taxation in Indonesia, enabling the government to instill order, fairness, and sustainable economic growth in the digital era.

Confronting the challenges posed by e-commerce, Singapore has adapted its tax laws, albeit lacking specific provisions for the digital economy. Guidance from the Inland Revenue Authority of Singapore (IRAS) serves as a crucial reference in determining tax obligations in e-commerce transactions, considering factors such as production location and website hosting. Additionally, through the Foreign Vendor Registration regime, Singapore taxes the import of digital services to achieve equality between local and international providers.

Singapore also actively participates in international initiatives aimed at addressing the global taxation challenges arising from the digital economy. All in all, Singapore has laid a robust foundation to tackle e-commerce taxation in the future, displaying intelligent adaptations to the evolving times.

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