

TAX IMPLICATIONS OF E-COMMERCE TRANSACTIONS: AN INDONESIAN LEGAL APPROACH

Lastika Dewi Anggoro Ratih

Faculty of Law, Universitas Muhammadiyah Yogyakarta, Indonesia

E-mail: lastikadewi791@gmail.com

Putri Anggia

Faculty of Law, Universitas Muhammadiyah Yogyakarta, Indonesia

E-mail: putri.anggia@law.umy.ac.id

ABSTRACT

This study explores the intersection of e-commerce and civil law in Indonesia, focusing on the implications for tax collection. Employing a normative legal research approach, the study draws on primary and secondary legal materials sourced through extensive library research. The qualitative data analysis is conducted using a descriptive analytical method. The findings underscore that e-commerce transactions are predominantly governed by electronic contracts, as stipulated in Article 1320 of the Civil Code and further regulated by the Electronic Information and Transactions Law (EIT LAW) No. 19 of 2016. These electronic contracts enable efficient transactions, eliminating the need for physical meetings. Central to these transactions are consumer rights, including the protection of accurate information and personal data, as mandated by the Personal Data Protection Law (PDP LAW) No. 27 of 2022. In terms of tax collection, e-commerce is subject to regulations under the Income Tax Law, VAT Law, and specific Ministry of Finance regulations. These regulations require certain digital service providers to collect Value-Added Tax (VAT) on transactions, ensuring compliance with national tax laws. The civil context of e-commerce in Indonesia is shaped by two key aspects: electronic contracts and their legal validity. Electronic contracts, which are generated, agreed upon, and signed through digital platforms such as email, web-based applications, and online contract management systems, streamline business processes by significantly reducing the time and costs associated with traditional transactions.

Keywords: Civil Law; Consumer Protection; E-Commerce; E-Contracts; Tax Collection.

A. INTRODUCTION

Globalization is a complex phenomenon involving economic, social, political, and cultural integration across the globe. It has created networks linking countries and individuals from various parts of the world. The world today is shaped by global trade, money moving between countries, more people traveling, and the spread of technology like phones and computers. This process is not only fosters interdependence among nations but also influences every aspect of human life. National aspects of life encompass the production of goods and services to the widespread dissemination of cultural values.¹ This process of globalization creates deep interdependence among nations and brings about various changes.

Globalization drives digitalization worldwide. Information and communication technology is rapidly advancing, facilitating the exchange of information. This is evident from the increased use of the internet, mobile devices, and information technology infrastructure in various countries. In today's globalized world, changes in how we talk, work, learn, and connect with

¹Moghadam, V. M, "What was globalization?", *Globalizations*, Vol. 18, No. 5, (2021), p. 699.

others are common. We rely more on digital technology now. An illustrative instance of this phenomenon is the process of digitalization.²

Moreover, the growth of digital economy or e-commerce is one of the most striking impacts of the fusion between globalization and digitalization. Through the increasingly extensive integration of global markets, globalization enables companies to reach customers across the globe more efficiently. Conversely, digitalization has transformed the way businesses are conducted through the presence of online platforms that facilitate transactions without geographical limitations.³ E-commerce is becoming increasingly relevant in this era due to the ease of access and the wide range of products offered globally, leading to a paradigm shift in modern trade.⁴

Thus, globalization and digitalization mutually influence each other. Consequently, they shape a rapidly evolving ecosystem and transform the global business landscape. This triggers the growth of e-commerce. Every consumer worldwide cannot avoid involvement in online transactions. Therefore, online transactions become unavoidable for every consumer globally. This fuels the growth of e-commerce, as consumers worldwide increasingly engage in online transactions.⁵ Advancements in information and communication technology facilitate the widespread increase in internet connectivity and serve as a key factor in driving transformation and change.⁶

The growth of e-commerce has broad implications, ranging from the transformation of traditional business models to changes in consumer behavior. Traditional businesses are compelled to adapt to this digital era by enhancing their online presence or even creating entirely new business models that are fully digital-based.⁷ Meanwhile, consumers find themselves with greater access to a variety of products and services from around the world, increasing their choices and flexibility in their purchases. Additionally, the digital economy also creates new job opportunities in related sectors such as information technology, digital marketing, and logistics.⁸

In Indonesia, the interplay between tax law and civil law becomes particularly evident when examining traditional business practices alongside online transactions. Traditional businesses, which often operate in physical markets and involve face-to-face transactions, are governed by a set of contractual agreements that align with both civil and tax regulations. Civil law, which underpins the creation and enforcement of contracts, ensures that agreements between parties are clear, enforceable, and fair. These contracts outline the obligations of each party, the terms of payment, and the resolution of potential disputes, thus facilitating smooth commercial operations. On the other hand, tax law regulates the fiscal responsibilities arising from these transactions, including the calculation and payment of taxes such as VAT or income tax. Ensuring compliance with tax obligations is integral to the legal framework that supports traditional businesses, thereby reinforcing the importance of contract law in maintaining a structured and accountable business environment.

²Flew, T, "Globalization, neo-globalization and post-globalization: The challenge of populism and the return of the national", *Global Media and Communication*, Vol. 16, No. 1, (2020), p. 27.

³Walter, S, "The Backlash against Globalization", *Annual Review of Political Science*, Vol. 24, No. 1 (2021), p. 428.

⁴Radicić, D., & Petković, S, "Impact of digitalization on technological innovations in small and medium-sized enterprises (SMEs)", *Technological Forecasting and Social Change*, Vol. 191, (2023), p. 137.

⁵Pierre, C., et al, "Task Force on Taxation of the Digital Economy", *Report to the Minister of Economy of France*, (2013), p. 1-188.

⁶Yamen, A., Coskun, A., & Mersni, H, "Digitalization and tax evasion: the moderation effect of corruption", *Economic Research-Ekonomika Istrazivanja*, Vol. 36, No. 2, (2023), p. 47.

⁷Evans, P., & Gawer, A, "The Rise of the Platform Enterprise: A Global Survey", *University of Surrey and Boston University*, (2016), p. 27.

⁸Varian, H. R., Farrell, J., & Shapiro, C, *The Economics of Information Technology: An Introduction*. Cambridge University Press, (2004), p. 65.

In the realm of online transactions, the relevance of both tax and civil law persists, albeit in a more digital context. Online businesses, which frequently operate across geographical boundaries, also rely on contractual agreements to define the terms of their engagements. These contracts might cover aspects such as payment terms, delivery schedules, and dispute resolution mechanisms. Civil law governs these contracts, ensuring their validity and enforceability in a digital environment. Concurrently, tax law addresses the complexities of online transactions, including issues of jurisdiction and digital taxation. The contract between parties remains a common thread, as it serves as the basis for determining tax liabilities and ensuring compliance with both local and international regulations. Thus, despite the evolution from traditional to digital platforms, the fundamental principles of contract law remain crucial in linking civil and tax laws, underpinning the regulation and management of economic activities.

When constructing a legal contract, it is crucial to adhere to specific requirements to ensure its validity and enforceability. These requirements typically include clarity in the terms and conditions, mutual consent, and the capacity of parties to enter into the agreement. A well-drafted contract will clearly outline the obligations of each party, including financial commitments and compliance with relevant laws.

In the context of taxation, particularly Value Added Tax (VAT), the fulfillment of these contractual requirements has direct implications. When a contract meets all legal criteria, it establishes the basis for the parties' obligation to adhere to tax regulations. For instance, in a traditional business setting, the contract may specify the sale of goods or services that are subject to VAT. The contract then binds the parties to ensure that VAT is calculated correctly and paid to the tax authorities as required by law. Similarly, in online transactions, the contract will detail the taxable nature of the transaction, and compliance with VAT obligations is enforced based on the terms agreed upon.

Thus, the integrity of a legal contract is paramount not only for defining the rights and responsibilities of the parties involved but also for ensuring adherence to tax obligations such as VAT. By meeting contractual requirements, businesses and individuals create a framework that supports legal and fiscal compliance, thereby facilitating lawful and transparent economic transactions.

Furthermore, Indonesia plays a significant role as a leader in the digital economy in Southeast Asia with rapid growth.⁹ Indonesia ranks as the 10th largest country in e-commerce growth, with a staggering 78 percent increase, placing it at the top position. Meanwhile, Mexico ranks second, with a growth rate of 59 percent.¹⁰

Nevertheless, Indonesia has an e-commerce roadmap governing licensing, taxation, ownership, and support for e-commerce, including protection for citizens. This is outlined in Presidential Regulation No. 74/2017 concerning the Road Map for the National Electronic Commerce Trading System (e-commerce roadmap) 2017-2019. The implementation of e-commerce taxation is regulated by Minister of Finance Regulation Number 210/PMK.010/2018 on Tax Treatment on Trading Transactions through Electronic Systems, effective as of April 1, 2019. The targets in PMK Number 210/2018 are providers and merchants of marketplace platforms.

The government does not impose new types or rates of tax on e-commerce users. The aim of this PMK is to create equality among economic actors. The tax object in e-commerce PMKs is trading transactions related to marketplace platforms involving service providers, sellers, and buyers. Service providers include Lazada.co.id, Olx.co.id, Bukalapak.com, and Tokopedia.com.

⁹DBS Asia Insight, (13th January 2016), *E-Commerce in Asia: Bracing for Digital Disruption*. DBS Group Research. <https://www.dbs.com/insights/id/article/indonesia-pusat-ecommerce-asean.html> (Retrieved on 19th March 2024)

¹⁰Kominfo (28th February 2022), *Kemkominfo: Pertumbuhan e-Commerce Indonesia Capai 78 Persen*. https://www.kominfo.go.id/content/detail/16770/kemkominfo-pertumbuhan-e-commerce-indonesiacapai-78-persen/0/sorotan_media, (Retrieved on 19th March 2024)

Regardless, tax issues for e-commerce in Indonesia have become increasingly complex with the development of the digital industry. One of the main challenges is the management and collection of taxes from e-commerce players, especially micro and small sellers who are often difficult to trace by tax authorities. Limitations in monitoring and collecting taxes on such a large scale also pose problems in obtaining tax revenue as fairly as possible.

B. RESEARCH METHODS

The type of research employed in this study is normative legal research. In normative legal research, the legal materials used consist of primary legal materials and secondary legal materials. Primary legal materials are authoritative, meaning they have authority. Primary legal materials consist of legislation, records of deliberations in the legislative process, and court judgments. Primary legal materials, such as legislation, include:

1. Primary Legal Materials

These are legally binding materials established by authorized parties. In this paper, they include the following primary legal materials:

- a. Law Number 4 of 2021 on the Ratification of the ASEAN Agreement on Electronic Commerce.
- b. Law No. 7 of 2014 on Trade.
- c. Law Number 28 of 2007 on the Third Amendment to Law Number 6 of 1983 on General Provisions and Taxation Procedures.
- d. Government Regulation Number 18 of 2019 on Trade Through Electronic Systems.
- e. Minister of Finance Regulation Number 60/PMK.03/2022 on E-commerce Taxation.

2. Secondary Legal Materials

These are materials that provide explanations regarding primary legal materials, such as documents containing information and articles related to taxation and e-commerce.

The technique used to gather legal materials in this study is through library research, which involves document study by collecting and studying legal books, literature, academic writings, regulations, and other relevant readings related to the thesis writing. In this study, all collected data are analyzed qualitatively, adopting a descriptive analytical method. This approach involves in-depth investigation of relevant descriptive material, which is then linked to a specific issue or phenomenon that is the focus of the research. The researcher compiles various data, including legal texts, court decisions, articles, and other relevant resources, to understand the existing legal context. Subsequently, the data are carefully analyzed to identify patterns, trends, and relationships that may exist among various aspects related to the researched issue.

C. DISCUSSION

1. E-Commerce in the Context of Civil Law

Electronic contracts have become a central element in the modern e-commerce ecosystem as they enable transactions and agreements to be conducted efficiently and swiftly in the digital world. An electronic contract refers to an agreement that is generated, approved, and signed via digital platforms such as email, web-based applications, and online contract management systems. With electronic contracts, business processes can be carried out without the need for physical meetings, reducing the time and costs associated with traditional transactions. This also supports greater flexibility and accessibility, allowing parties involved to finalize agreements from different locations simultaneously. However, to ensure that electronic contracts have the same legal force as traditional contracts, it is important that these agreements meet certain criteria, such as clarity of the contract's content, consent from all parties, and the use of secure systems for the creation and storage of documents.

With the increasing volume of online transactions, understanding the legal validity of electronic contracts has become more important to ensure that digitally created agreements have legal force equivalent to traditionally signed physical contracts. In the ever-evolving context of e-commerce, electronic contracts are often used to draft agreements between parties who have never met in person, necessitating clear and consistent legal recognition.

The legal validity of electronic contracts relies on the implementation of adequate regulations and recognition by relevant legal systems. Clear regulations on how electronic contracts should be formed, approved, and executed ensure that these agreements will be recognized and enforceable in court if necessary.

Applying the fundamental principles of traditional contracts in an electronic context is crucial. For instance, the requirements for a valid agreement set out in traditional civil law must also be translated into the practice of electronic contracts, ensuring that all essential elements such as agreement, capacity, object, and lawful cause are still met. In Indonesia, purchase agreements are governed by Article 1320 of the Civil Code, which stipulates that the conditions for a valid agreement include mutual consent, the capacity to enter into an agreement, a specific subject matter, and a lawful cause.

More specifically, the legal validity of electronic contracts is regulated under the Electronic Information and Transactions Law (EIT Law) No. 11 of 2008, which has been amended by Law No. 19 of 2016. The EIT Law provides a clear legal basis for electronic contracts by stating that documents and information generated, received, and sent through electronic systems have the same legal force as physical documents. Article 5 of the EIT Law asserts that electronic information and/or electronic documents that have gone through an electronic system can be considered valid and legally binding as long as they meet the applicable terms and conditions. This includes valid consent from all parties involved in the contract, as well as clarity of the contract's content and the reliability of the system used.

Article 5 of the Electronic Information and Transactions Law (EIT Law) also states that electronic information and/or electronic documents generated, received, and/or sent through electronic systems can have the same legal force as paper documents, provided they meet the applicable terms and conditions. This means that as long as an electronic contract meets specific requirements, such as the consent of both parties and the clarity of the agreement's content, it can be considered valid and enforceable in court.

Additionally, the EIT Law also stipulates that electronic signatures have legal force equivalent to manual signatures, as long as they meet the security and authenticity requirements set forth. Article 11 of the EIT Law explains that electronic signatures using appropriate methods to ensure the signer's identity and document integrity can be legally accountable. This reflects the recognition that digital transactions and contracts can be treated in the same manner as conventional ones, provided all stipulated procedures are adhered to. The EIT Law creates a legal framework that supports the use of electronic contracts in e-commerce, enhancing efficiency and flexibility in business transactions while providing legal assurance for parties involved in digital agreements.¹¹

2. Consumer Rights and Data Protection in E-Commerce

Consumer rights in e-commerce are crucial for protecting buyers' interests and ensuring that transactions are conducted fairly and transparently. In the digital era, where consumers often deal with sellers they have not met in person, consumer protection becomes increasingly critical. The Indonesian Consumer Protection Law (Law No. 8 of 1999) establishes various rights that consumers must receive in online transactions, including the right to clear and

¹¹Rahardjo, B, "Aspek Hukum Kontrak Elektronik dalam E-Commerce," *Jurnal Perdagangan dan Hukum*, Vol. 18, No. 2, (2021), p. 78-92.

accurate information, the right to receive goods or services as promised, the right to product safety and security, and the right to compensation or redress in the event of a breach or loss due to the transaction.

Here are some of the consumer rights in e-commerce as regulated by Indonesian law and related regulations according to Law No. 8 of 1999:¹²

a. Right to Clear and Accurate Information

Consumers have the right to receive accurate and clear information about the products or services offered, as a protection against unfair trading practices. This right ensures that consumers can make well-informed and reasoned purchasing decisions. In e-commerce practice, this means that every detail about the product—including price, technical specifications, materials, size, and other conditions—must be presented comprehensively and without misleading information. Sellers must avoid ambiguous or potentially deceptive descriptions that could influence consumer decisions.

b. Right to Choose and Reject Products

Consumers have the right to select products or services that meet their needs and preferences, and to reject goods or services that do not meet their expectations or initial agreement. This right is particularly important in e-commerce, where consumers often cannot physically inspect items before making a purchase.

c. Right to Protection of Safe Transactions

Consumers have the right to feel secure while conducting transactions, which includes protection of their personal and financial information from unauthorized access and misuse. In the context of e-commerce, this right becomes increasingly important as transactions are often conducted online, where sensitive data such as credit card numbers, addresses, and other personal information can become targets for cybercriminals.

d. Right to Compensation

If the goods or services received by the consumer do not meet the promises made or are damaged, the consumer is entitled to fair compensation. This right includes options for requesting a refund, replacement of the item, or repair according to applicable terms. In e-commerce, this is crucial because consumers often cannot inspect the condition of items physically before the transaction.

e. Right to File Complaints and Dispute Resolution

Consumers have the right to file complaints and seek resolution if they encounter problems with the products or services they have purchased. This right ensures that consumers can express their dissatisfaction and seek solutions when the products or services received do not meet their expectations or are defective. In e-commerce, this involves access to responsive and effective customer service, which can help resolve issues or dissatisfaction arising from the transaction.

Data protection in e-commerce in Indonesia is crucial for safeguarding consumer privacy and information security. With the increasing use of digital technology in commerce, the management of personal data becomes essential to protect consumers from potential privacy breaches and data misuse. Data protection in e-commerce is comprehensively regulated under the Personal Data Protection Law (PDP Law) No. 27 of 2022, which provides a clear legal framework for the collection, processing, and protection of personal data.

The Personal Data Protection Law (PDP Law) emphasizes that the collection of personal data can only occur with explicit consent from the data subject. For electronic system operators, including e-commerce platforms, this means they must obtain clear and documented consent from consumers before collecting their personal data. This consent must be informed, specific, and aware, ensuring that consumers fully understand the type of data being collected, the

¹²Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 tentang Perlindungan Konsumen, Pasal 4 (1) dan Pasal 7.

purpose of its collection, and how it will be used. This information must be provided openly and transparently, allowing consumers to make an informed decision about whether to provide their data.

Furthermore, PDP Law stipulates that collected data may only be used for the purposes agreed upon by the consumer and cannot be transferred for other uses without additional consent. This means any changes in the purpose of using personal data must be accompanied by new consent from the consumer. This provision aims to protect consumer privacy rights and ensure that personal data is not misused. Implementing these principles helps build trust between consumers and electronic system operators and ensures that personal data is managed ethically and in compliance with legal regulations.¹³

The application of PDP Law underscores the importance of consumer consent in the use of personal data, which is an effort to protect individual privacy rights. By requiring additional consent for any changes in the purpose of data use, this regulation prevents potential data misuse that could harm consumers. This principle ensures that consumers have full control over their personal data, providing clarity and transparency regarding how their data is used. This aligns with global trends in personal data protection, where consumer rights are a priority in data management by companies or digital service providers.

Moreover, adherence to PDP Law also positively impacts the reputation of electronic system operators. By complying with these regulations, companies can build stronger trust with their consumers, ultimately supporting business sustainability. Operators who respect privacy rights and maintain personal data security not only comply with the law but also demonstrate a commitment to good business ethics. Overall, PDP Law plays a key role in creating a secure and trustworthy digital environment where consumers feel protected from potential exploitation of their personal data.

3. Implications of E-Commerce on Tax Collection in Indonesia

The implications of e-commerce on tax collection in Indonesia reveal both new challenges and opportunities within the tax system. The rapid growth of e-commerce has prompted the government to enhance regulations to ensure that taxes can be effectively levied on digital transactions. To regulate e-commerce tax collection, Indonesia has enacted various laws and government regulations aimed at ensuring that every digital transaction conducted through e-commerce platforms is subject to taxation in accordance with applicable rules. This measure is taken to prevent significant revenue loss due to unrecorded or improperly taxed e-commerce transactions.

Key regulations governing e-commerce tax collection in Indonesia include the Income Tax Law, the Value Added Tax Law, and specific regulations from the Minister of Finance that address taxation for digital transactions. For instance, VAT regulations have been updated to include digital goods and services sold by both domestic and foreign companies. Additionally, the government has implemented a digital tax system to ensure tax compliance in the e-commerce sector, including designating specific digital service providers as VAT collectors. Through these regulations, the Indonesian government aims to create fairness in tax collection and ensure that all businesses, whether online or offline, contribute equitably to national revenue.

The laws and government regulations that govern e-commerce taxation in Indonesia are as follows:

a. Value Added Tax (VAT) and Luxury Goods Sales Tax (PPnBM)

Law Number 8 of 1983 on Value Added Tax on Goods and Services and Luxury Goods Sales Tax, which has been amended several times, with the latest amendment being Law Number 7 of 2021, regulates the obligations for the collection, deposit, and reporting of VAT

¹³Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi, Pasal 6 dan 7.

on goods and services sold, including those in e-commerce transactions. VAT is levied on the delivery of goods and/or services performed by entrepreneurs, including those conducted through e-commerce platforms.¹⁴ The Law Number 8 of 1983 on VAT and Luxury Goods Sales Tax, amended by Law Number 7 of 2021, provides a crucial legal framework for regulating tax on goods and services transactions, including e-commerce. This law establishes the obligation for entrepreneurs to collect, deposit, and report VAT on the delivery of goods and services. With this provision, e-commerce transactions are no longer exempt from tax obligations, ensuring that online businesses meet the same tax obligations as conventional businesses and contribute fairly to state revenue.

The imposition of VAT on e-commerce transactions is a significant step in addressing potential imbalances between online and traditional businesses. By including transactions conducted through e-commerce platforms within the scope of VAT obligations, this law aims to reduce any unfair competitive advantage that online businesses might have previously enjoyed due to their untaxed status. It also fosters fiscal fairness, where all business operators, regardless of their business model, contribute proportionally to taxes, supporting the principle of equal treatment in the market and reinforcing state revenue for infrastructure development and public services.

b. Minister of Finance Regulation Number 48/PMK.03/2020

Minister of Finance Regulation Number 48/PMK.03/2020 on Value Added Tax on Goods and Services Delivered through Electronic Systems provides detailed mechanisms for VAT collection by online traders. This regulation stipulates that online traders, whether domestic or international, who sell goods or services to consumers in Indonesia, are required to collect and remit VAT. Foreign e-commerce traders who do not have a business presence in Indonesia are also subject to VAT, which must be managed through the marketplace used for transactions.¹⁵ The implementation of this regulation aims to ensure that e-commerce transactions involving Indonesian consumers are taxed fairly, regardless of the physical location of the trader. By shifting the VAT collection obligation to the marketplace, PMK Number 48/PMK.03/2020 addresses the challenges of enforcing tax laws on foreign traders who may be difficult for Indonesian tax authorities to reach directly. This step not only enhances tax compliance in the e-commerce sector but also creates a more equitable business environment, where all business operators, including those operating internationally, contribute to state revenue in accordance with applicable tax obligations.

c. Income Tax

The Republic of Indonesia Law Number 36 of 2008 on Income Tax, which has been amended by Law Number 7 of 2021, regulates income tax obligations for individuals and business entities. In the context of e-commerce, income tax is levied on profits obtained from electronic commerce transactions. Both domestic and foreign e-commerce traders are required to report their income and pay income tax according to the applicable regulations.¹⁶ The implementation of these provisions aims to ensure that income generated from e-commerce transactions is taxed fairly and consistently with prevailing tax principles. As such, both domestic and international business operators must comply with income tax reporting and payment obligations, which helps create a transparent and competitive business environment. This law also supports fiscal fairness by ensuring that all business operators, regardless of location, contribute to state revenue based on the profits they earn from e-commerce activities.

¹⁴Undang-Undang Republik Indonesia Nomor 8 Tahun 1983 tentang Pajak Pertambahan Nilai Barang dan Jasa dan Pajak Penjualan atas Barang Mewah (sebagaimana diubah dengan UU No. 7 Tahun 2021).

¹⁵Peraturan Menteri Keuangan Nomor 48/PMK.03/2020 tentang Pajak Pertambahan Nilai atas Barang dan Jasa yang Diserahkan melalui Perdagangan Melalui Sistem Elektronik.

¹⁶Peraturan Menteri Keuangan Nomor 48/PMK.03/2020 tentang Pajak Pertambahan Nilai atas Barang dan Jasa yang Diserahkan melalui Perdagangan Melalui Sistem Elektronik.

d. Director General of Taxes Regulation No. PER-16/PJ/2016 on General Guidelines for Income Tax

Director General of Taxes Regulation No. PER-16/PJ/2016 on General Guidelines for Income Tax outlines how income tax is applied to earnings from e-commerce activities. For domestic e-commerce operators, traders are required to identify and report their income in accordance with applicable tax regulations. For international traders, income tax may be imposed based on international tax agreements between Indonesia and the country where the trader is based.¹⁷ International traders engaged in e-commerce may be subject to income tax according to international tax treaties between Indonesia and their country of residence. These treaties aim to avoid double taxation and ensure that income derived from e-commerce transactions in Indonesia is taxed fairly and in accordance with the agreements established between the relevant countries. Through these guidelines, the government seeks to effectively manage and regulate tax obligations for all operators in the e-commerce sector, whether operating domestically or internationally.

e. Government Regulation No. 80 of 2019 on Electronic System Trade

Government Regulation No. 80 of 2019 on Electronic System Trade covers various aspects of e-commerce, including tax obligations. This regulation requires e-commerce platforms to handle tax collection, payment, and reporting in accordance with applicable regulations.¹⁸ In this context, e-commerce platforms act as intermediaries between sellers and buyers, and thus have the responsibility to comply with tax rules by collecting and remitting Value Added Tax (VAT) and reporting transactions to tax authorities. The purpose of this regulation is to enhance tax compliance in the e-commerce sector, ensure that all online transactions contribute to national revenue, and create a fair and transparent business environment for all participants.

4. Application of Value-Added Tax (VAT) and Income Tax

The relationship between tax law and civil law is symbiotic, where tax law often relies on principles and concepts from civil law to establish the basis for tax collection. In this context, civil law actions, such as agreements, transactions, and asset ownership, serve as important foundations for determining tax obligations.¹⁹ For example, sales agreements, lease contracts, or gifts can be subject to taxation, such as VAT or income tax.²⁰ Tax law uses concepts from civil law to determine when a transfer of wealth or income occurs that is subject to tax, ensuring that all relevant transactions are accurately recorded and reported for tax purposes.²¹

In Indonesia, Value Added Tax (VAT) is a consumption tax levied on the sale of goods and services, governed by Law No. 42 of 2009. The standard VAT rate is 10%, applicable to most transactions, with certain exemptions for basic necessities and specific services. Businesses with annual sales exceeding IDR 4.8 billion must register as VAT taxpayers, issue tax invoices, and file monthly VAT returns. They can also claim input tax credits for VAT paid on purchases related to their business, allowing for tax liabilities to be offset.

Income Tax Indonesia, regulated by Law No. 36 of 2008, is imposed on the income of individuals and entities. Individual tax rates are progressive, ranging from 5% to 35%, while corporate tax is generally set at 22%. Tax residents are taxed on their worldwide income, whereas non-residents are taxed only on income sourced within Indonesia. Taxpayers can claim

¹⁷Peraturan Direktur Jenderal Pajak Nomor PER-16/PJ/2016 tentang Pedoman Umum Pajak Penghasilan.

¹⁸Peraturan Pemerintah Republik Indonesia Nomor 80 Tahun 2019 tentang Perdagangan Melalui Sistem Elektronik.

¹⁹Fitriya, (26th June 2023), <https://klikpajak.id/blog/ketahui-kedudukan-hukum-pajak-di-indonesia/#:~:text=Hubungan%20antara%20hukum%20pajak%20dan.penghasilan%2C%20kekayaan%2C%20maupun%20warisan>, Retrieved on 3th July 2024).

²⁰Zolt, Eric M, "Taxation and Democracy," *Law and Social Inquiry* 38.3 (2013), p. 729-745.

²¹McCaffery, Edward J., and Joel Slemrod, "Taxing Wealth," *Review of Law & Economics* 2.3 (2006), p. 601-628.

deductions for expenses related to income generation and are required to file annual tax returns. The Directorate General of Taxes (DJP) oversees both VAT and Income Tax compliance and enforcement, ensuring adherence to regulations.

In the context of e-commerce, the relationship between tax law and civil law becomes increasingly complex and significant. E-commerce transactions often involve various digital agreements and electronic contracts governed by civil law, such as the sale of goods and services through online platforms. Tax law then utilizes these foundations to determine tax obligations, including VAT and income tax. For instance, when a consumer purchases goods from an online store, the electronically created sales agreement serves as the basis for VAT determination. Additionally, e-commerce platforms operating across international borders face additional challenges in determining applicable tax jurisdiction, requiring adjustments and international cooperation to ensure fair and effective tax collection. Tax law continues to seek foundations in civil law for e-commerce to accommodate technological advancements and ensure that revenue from digital trade is taxed appropriately.

E-commerce is closely linked to tax regulation and civil law. In the context of taxation, governments in various countries have adopted policies to ensure that e-commerce transactions are taxed correctly. Many countries have implemented Value-Added Tax (VAT) or sales tax for online transactions, ensuring that revenue from the sale of goods and services through e-commerce platforms is taxed according to applicable regulations. Additionally, income tax must also be considered by e-commerce businesses, whether individuals or companies, based on the profits they earn from their electronic trading activities.²²

On the other hand, civil law also plays a crucial role in regulating e-commerce transactions. This legislation encompasses various aspects, including electronic contracts, consumer rights, and data protection. Electronic contracts must comply with fundamental contractual principles in civil law, such as mutual agreement between the parties involved and clear obligations. Moreover, consumer protection laws require e-commerce platforms to provide clear and accurate information about the products or services sold, as well as return and refund policies if the received goods do not match the description.

The application of civil law and tax law in e-commerce is essential not only to protect consumer rights but also to ensure fairness and transparency in the digital trading world. For instance, the Agreement on Trade-Related Aspects of Intellectual Property Rights and the General Agreement on Tariffs and Trade by the World Trade Organization (WTO) provide an international framework that affects e-commerce regulation, including taxation and contractual rights. With clear and consistently applied regulations, the e-commerce ecosystem can grow in a healthy and sustainable manner, minimizing potential disputes and abuses between businesses and consumers.²³

E-commerce is taxed for several key reasons related to fiscal fairness, national revenue, and fair trade regulation. Taxation on e-commerce transactions aims to establish equity between online businesses and traditional physical stores. Without taxation, e-commerce entities could gain an unfair competitive advantage due to lower operational costs compared to physical stores. Taxation helps maintain healthy competition in the market and prevents unfair trade practices. Revenue from e-commerce taxes also contributes significantly to the national budget.

The rapid growth of e-commerce has altered consumer shopping behavior, thereby changing the traditional tax base. Without tax regulations accommodating e-commerce, countries would lose substantial potential revenue from online transactions. Therefore, governments strive to

²²Dagan, Tsilly. "The Law of Global Digital Taxation," *European Journal of International Law* 30.3 (2019):, p. 755-781

²³WTO. (2021). E-commerce and developing countries https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm, (Retrieved on 27th June 2024)

integrate e-commerce taxation into their tax systems to ensure a stable national revenue that can be used for public services and infrastructure development.²⁴

Regulating e-commerce taxation is also crucial for preventing tax evasion and ensuring compliance with regulations. With clear rules on e-commerce taxation, governments can more effectively monitor and control online trading activities. This includes ensuring that all businesses, whether local or international, adhere to the same tax obligations. The imposition of taxes on e-commerce not only promotes a fair trading environment but also aids in the enforcement of tax laws and overall regulatory practices.²⁵

D. CONCLUSION

The concept of e-commerce in civil law is primarily based on its contracts, which are represented by e-contracts. An e-contract is the fundamental basis that creates legal consequences between parties, establishing rights and obligations. An electronic contract is an agreement that is created, agreed upon, and signed through digital platforms such as email, web-based applications, and online contract management systems. With electronic contracts, business processes can be conducted without requiring physical meetings, significantly reducing time and costs compared to traditional transactions. This is in line with Law No. 19 of 2016.

Additionally, the civil law aspects of e-commerce also encompass consumer rights and personal data protection. Consumer rights include: the right to clear and accurate information, the right to choose and reject products, the right to protection for secure transactions, the right to compensation, and the right to file complaints and resolve disputes. Personal data protection for consumers is regulated by the Personal Data Protection Law (Law No. 27 of 2022).

The implications of e-commerce on tax collection in Indonesia include several important regulations governing e-commerce tax collection in Indonesia, including the Income Tax Law, the Value Added Tax Law, and the Minister of Finance Regulations specifically addressing digital transaction taxes. For example, VAT regulations have been updated to include digital goods and services transactions sold by both domestic and foreign companies. Additionally, the government has implemented a digital tax system to ensure tax compliance in the e-commerce sector, including the designation of certain digital service providers as VAT collectors.

REFERENCE

Law and Government Regulations

Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.

Undang-Undang Republik Indonesia Nomor 8 Tahun 1983 tentang Pajak Pertambahan Nilai Barang dan Jasa dan Pajak Penjualan atas Barang Mewah sebagaimana diubah dengan UU No. 7 Tahun 2021

Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi
Peraturan Menteri Keuangan Nomor 48/PMK.03/2020 tentang Pajak Pertambahan Nilai atas Barang dan Jasa yang Diserahkan melalui Perdagangan Melalui Sistem Elektronik.

²⁴OECD. (2020). Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint. <https://www.oecd.org/tax/beps/tax-challenges-arising-from-digitalisation-report-on-pillar-two-blueprint-bb8eade1-en.htm>, (Retrieved on 27th June 2024).

²⁵WTO. (2021). E-commerce and developing countries. https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm, (Retrieved on 27th June 2024)

Books

- Evans, P., & Gawer, A. (2016). *The rise of the platform enterprise: A global survey*. University of Surrey and Boston University.
- Varian, H. R., Farrell, J., & Shapiro, C. (2004). *The economics of information technology: An introduction*. Cambridge University Press.

Journal

- Dagan, T. (2019). The law of global digital taxation. *European Journal of International Law*, 30(3), 755-781.
- Flew, T. (2020). Globalization, neo-globalization and post-globalization: The challenge of populism and the return of the national. *Global Media and Communication*, 16(1), 27.
- Moghadam, V. M. (2021). What was globalization? *Globalizations*, 18(5), 699.
- McCaffery, E. J., & Slemrod, J. (2006). Taxing wealth. *Review of Law & Economics*, 2(3), 601-628.
- Radacic, D., & Petković, S. (2023). Impact of digitalization on technological innovations in small and medium-sized enterprises (SMEs). *Technological Forecasting and Social Change*, 191, 137.
- Rahardjo, B. (2021). Aspek hukum kontrak elektronik dalam e-commerce. *Jurnal Perdagangan dan Hukum*, 18(2), 78-92.
- Walter, S. (2021). The backlash against globalization. *Annual Review of Political Science*, 24(1), 428.
- Yamen, A., Coskun, A., & Mersni, H. (2023). Digitalization and tax evasion: The moderation effect of corruption. *Economic Research-Ekonomika Istrazivanja*, 36(2), 47.
- Zolt, E. M. (2013). Taxation and democracy. *Law and Social Inquiry*, 38(3), 729-745.

Internet Sources

- DBS Asia Insight. (2016, January 13). *E-commerce in Asia: Bracing for digital disruption*. DBS Group Research. <https://www.dbs.com/insights/id/article/indonesia-pusat-ecommerce-asean.html> (Retrieved March 19, 2024).
- Fitriya. (2023, June 26). <https://klikpajak.id/blog/ketahui-kedudukan-hukum-pajak-di-indonesia/#:~:text=Hubungan%20antara%20hukum%20pajak%20dan,penghasilan%2C%20kekayaan%2C%20maupun%20warisan> (Retrieved July 3, 2024).
- Kominfo. (2022, February 28). *Kemkominfo: Pertumbuhan e-Commerce Indonesia capai 78 persen*. https://www.kominfo.go.id/content/detail/16770/kemkominfo-pertumbuhan-e-commerce-indonesiacapai-78-persen/0/sorotan_media (Retrieved March 19, 2024).
- OECD. (2020). *Tax challenges arising from digitalisation – Report on pillar two blueprint*. <https://www.oecd.org/tax/beps/tax-challenges-arising-from-digitalisation-report-on-pillar-two-blueprint-bb8eade1-en.htm> (Retrieved June 27, 2024).
- WTO. (2021). *E-commerce and developing countries*. https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm (Retrieved June 27, 2024).