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POTENTIAL ANALYSIS OF VALUE ADDED TAX (VAT) ON OVER THE TOP (OTT) FOREIGN SERVICES IN INDONESIA

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Abstrak: Evolusi digital kini mempengaruhi hampir seluruh aspek kehidupan masyarakat. Munculnya produk hasil perkembangan teknologi merespon sangat positif oleh masyarakat. Salah satunya hiburan dengan berbasis digital yakni layanan streaming dengan jumlah penikmat terbilang tinggi. Positifnya arah pertumbuhan konsumsi hiburan digital berusaha dikaitkan terhadap penerimaan pajak khususnya jenis PPN untuk dilihat seberapa besar sumbangannya terhadap negara. Hiburan digital yang dapat dipasarkan ke seluruh dunia lewat jaringan yang disebut over the top pada awalnya menimbulkan dilema penagihan kontribusinya, sehingga berbagai strategi disusun untuk menyelesaikan dilema tersebut. Menelusuri potensi penerimaan PPN atas konsumsi hiburan digital di Indonesia adalah tujuan utama dalam penelitian ini. Penelitian dengan jenis kualitatif berusaha menggali lebih dalam fakta di lapangan atas aspek penerimaan PPN lewat minat masyarakat dalam mengakses hiburan digital. Penelitian ini memanfaatkan data primer berupa pandangan ahli di bidang perpajakan dan didukung data sekunder. Hasil penelitian ini menunjukkan bahwa tingginya minat masyarakat memanfaatkan hiburan digital yang ditunjukkan lewat pesatnya pertumbuhan waktu akses layanan digital di Indonesia, merupakan potensi besar bagi penerimaan negara yang dapat ditagih lewat pengenaan pajak. Menjadi sumber penerimaan baru di sektor pajak jenis PPN, pemanfaatan hiburan digital di Indonesia dapat dioptimalkan penagihan dan penyetorannya PPNnya melalui pemberlakuan PMK No. 60 Tahun 2022 dan PER-12/PJ/2020. Belum maksimalnya di bidang pengawasan dan pemenuhan rasa adil bagi seluruh wajib pajak di Indonesia adalah catatan dan evaluasi bagi otoritas perpajakan dalam usahanya melaksanakan kewajiban penagihan kontribusi kepada penyedia digital luar negeri di Indonesia.

Kata Kunci: Hiburan Digital, Over The Top, Potensi Pajak, PPN PMSE

Abstract: Digital evolution now affects almost all aspects of people's lives. The emergence of products resulting from technological developments was responded to very positively by the community. One of them is digital-based entertainment, namely streaming services with a fairly high number of viewers. The positive direction of growth in digital entertainment consumption is trying to be linked to tax revenues, especially the type of VAT to see how much it contributes to the state. Digital entertainment that can be marketed around the world via a network called over the top initially poses a dilemma of collecting its contributions, so various strategies have been devised to solve this dilemma. Tracing the potential VAT revenue on digital entertainment consumption in Indonesia is the main object of this study. Research by the qualitative trying to probe deeper onto the ground of the VAT through the public interest in accessing digital entertainment. This study took advantage of the primary data of the views of experts in the field of taxation and supported secondary data. The results of this study indicate that the high interest of the public in using digital entertainment, which is indicated by the rapid growth of access to digital services in Indonesia, is a great potential for state revenues that can be collected through taxation. As a new source of income in the VAT type of tax sector, the use of digital entertainment in Indonesia can be optimized for VAT collection and deposit through the enactment of PMK No. 60/PMK.030/2022 and PER-12/PJ/2020. That has not been optimized in the field of supervision and the right to fulfill a sense of fairness for all taxpayers in Indonesia is a note and evaluation for authority taxation in their bid to the undertaking of duty calculated the contributions to digital providers foreign in Indonesia.

Keywords: Digital Entertainment, Over The Top, Tax Potential, VAT of PMSE

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Introduction

Technological advances and the digital revolution that has occurred have contributed to changes in socio-economic conditions in society. The change is that the economic system that was originally conventional has now evolved into a digital system (Wijaya and Utamawati, 2018). The shift in how to consume products and services from conventional to digital basis is driven by the facilities offered to provide convenience for users and can encourage community productivity because they have a variety of products and services (Manalu and Wijaya, 2022). One of the products and services from digital economy activities is Over the Top (OTT) based digital services. OTT-based services are services and or digital content that can be accessed using the internet network (Valentine, 2018). OTT-based digital services that can be accessed in Indonesia are very diverse, ranging from information provider services, communication service provider applications, video conferencing applications, applications in the form of transportation and food delivery services, varied entertainment services, and many other applications that provide services in the economy. digital.

The obstacles for the Indonesian tax authorities are caused by transactions that occur, namely purchases are made directly to foreign providers without having to prepare documents, apply for permits to use foreign services, make Letters of Credit (L/C), or without going through customs such as processing use of foreign goods or services in general. When compared between digital entertainment and conventional entertainment, there is no significant difference. It should be noted further that the differences identified are in how to buy and how to enjoy them, but this has a significant impact on the basis for determining the tax object (Miftahudin and Irawan, 2020). The type of tax that is most affected is Value Added Tax (PPN), considering that the object of VAT is the delivery of tangible and/or intangible Taxable Goods (BKP) and Taxable Services (JKP) which in this case experienced a shift in form, purchasing mechanism, and how to use (Putri, 2019). There are identified problems, namely, the collection of VAT on digital entertainment purchases from abroad in Indonesia so far has not been carried out directly by the provider, but is carried out by a third party who is a representative of the company in question in Indonesia who has not been able to confirm that the representative has been confirmed as a Taxable Entrepreneur. Taxes (PKP) so that supervision of ongoing transactions and VAT collection has difficulty (Manalu and Wijaya, 2022) and cannot apply remote digital supplies (Miftahudin and Irawan, 2020). Then, the imposition and supervision of penalties or sanctions for violations of tax provisions by digital service providers is relatively low (Pratiwi and Liana, 2021) so that it has implications for the level of equality of treatment among taxpayers. The problem of how the mechanism of collection, deposit, reporting, including how the supervision that arises from the unique way of doing business in the digital era will actually have a huge impact on the amount of VAT received by the state (Sativikarani et.al., 2020) because it is closely related. Optimally the collection and deposit system takes place plus the maximum supervision process by the authorities will certainly have a positive impact on the compliance of entrepreneurs in carrying out their collection obligations. The real challenge of taxation as mentioned by (Miftahudin and Irawan, 2020) is in terms of its physical presence in the place where the company carries out its economic activities which in fact hampers the mechanisms and systems issued in an effort to fulfill its objectives.

This study aims to understand the taxation aspects that arise on digital services based on Indonesian foreign OTT, to find out the tax collection system for digital content and service transactions from foreign digital companies in Indonesia in accordance with applicable regulations related to VAT taxation on digital transactions, as well as to knowing information related to potential taxes, especially VAT for the state on foreign OTT-based digital content and service transactions in Indonesia.

Method

This research is a qualitative type with a descriptive approach. The location or place in this study does not lead to a specific place so that it cannot be stated with certainty where it will take place. Rather, this research is focused on examining the reality that people's current craze is to use digital entertainment, which is trying to describe the potential VAT revenue for Indonesia. The research time is scheduled in sequence, which is estimated to run for 4 (four) months. The data source used is primary data, namely the results of interviews which are poured into interview manuscripts which contain discussions related to the views of parties related to the taxation system for digital transactions based on overseas OTT services and the level of effectiveness for collecting taxes on these transactions, as well as secondary data, namely in the form of taxation rules related to taxes on digital product transactions from abroad sold in Indonesia. The rules used are Government

Regulation no. 80 of 2019, PMK No. 60/PMK.03/2022, and Law no. 2 of 2020 as well as other regulations related to taxation of foreign digital transactions in Indonesia. Data collection techniques are interviews with research sources, including tax authorities, tax academics, and tax practitioners. Data collection instruments are key instruments and supporting instruments. The data analysis process utilizes the analytical technique by Miles and Huberman. The analysis was carried out at the time of data collection which had three main stages in the form of data collection and data reduction, discussion, and ended with drawing conclusions (Vera et.al., 2020; Darmayasa and Dayani, 2022; Thalib, 2022).

Result and Discussion

1.1 Overseas OT Service Taxation Aspect

Tax treaty is an agreement between countries in the field of taxation provisions in an effort to prevent double taxation and minimize efforts to avoid tax obligations (Sihombing, 2020). In addition to being guided by the tax treaty, it also refers to Law 36 of 2008 Article 2 (5) defining BUT as a foreign company carrying out business in Indonesia which is indicated by the construction of a physical office. Obstacles arise due to technological developments that make it easier for foreign entrepreneurs to market their products and services who do not have to build offices in Indonesia, this causes the BUT criteria to not be fulfilled (Sihombing, 2020). Through Article 6 paragraph (6) of Law Number 2 of 2020, foreign providers who do not have a physical office in Indonesia but meet the criteria for a significant economy present as stated in Article 6 paragraph (7) of Law Number 2 The year 2020 can be considered a BUT so that you deposit PPh on income in Indonesia. Then in Article 6 paragraph (8) further stipulates regarding the treatment of income tax payments for digital providers from countries that have a tax treaty that is adjusted to the contents of the agreement.

Examining this explanation, especially for digital content from abroad whose providers are not physically present in Indonesia through branch or representative offices can already be treated as BUT through the enactment of Law Number 2 of 2020, so that those who have registered and are confirmed as PMSE is required to deposit income tax on income in Indonesia, except for countries that have a tax treaty with Indonesia. Other foreign digital providers who are not considered BUT are not yet obliged to deposit income tax, considering that subjectivity as a foreign tax subject has not been fulfilled. Different treatment for types of VAT deposits whose receipts can be secured by the government, considering that OTT-based digital services can be classified as VAT Objects. This refers to the explanation of the object of VAT contained in Article 1A paragraph (1) of Law no. 42 of 2009 is any utilization of BKP and JKP, both tangible and intangible which can come from within or outside the customs area enjoyed in Indonesia.

In principle, the type of VAT is a tax paid by the user and then deposited by the provider company that acts as a collector (Kritian S. and Ramadhan, 2020) so that the collection obligation is not hindered by BUT treatment or tax treaty provisions. VAT is collected at the place of delivery of BKP and/or JKP carried out by business actors at the place concerned. However, these provisions were updated due to changes in business patterns in the digital era, so that business actors, both those with a physical business base and those with a significant economic presence, were required to collect VAT on the submission of their BKP and/or JKP.

1.2 VAT Collection System on Overseas OTT-Based Digital Services

As VAT collectors, foreign digital providers only have to collect VAT on the use of BKPTB and/or JKP sourced from abroad by Indonesian consumers (Wijaya and Nirvana, 2021). Foreign providers can cooperate with other parties domiciled in Indonesia to represent them in carrying out the obligation to collect the business carried out. The other appointed party must complete the obligations of the PMSE VAT collector, namely depositing the collected VAT and reporting on the collected, this is indicated in PMK No. 60/PMK.030/2022. Any fees subscriptions paid by consumers for the use of both BKPTB and/or JKP which are accessed through the internet network from outside the customs area, are now included with 11% VAT. overseas digital provider in Indonesia. Then, the collected VAT is deposited to the state through electronic bank transfers or other methods determined by the DGT every month by completing the proof of collection which is equated with a tax invoice according to the guidelines issued by the DGT, it is contained in PMK No. 60/PMK.030/2022. Then in PER-12/PJ/2020, it is also regulated that every VAT deposit to the state can use the rupiah currency by taking into account the exchange rate of the Ministry of Finance (KMK), United States Dollar currency, or other foreign

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currencies approved by the DGT. There are special provisions that must be followed if the deposit uses a foreign currency, it is stated in article 14 PER-12/PJ/2020.

As with the provisions of taxation in general, paid taxes must be reported. In particular, the PMSE VAT type reporting must be carried out on a quarterly basis (3 tax periods) and no later than the end of the quarterly period. PMSE VAT reporting must contain information in the form of the number of buyers, the value of DPP, the amount of VAT collected, and the amount of VAT paid to the state. Also instructed to compile PMSE VAT annual report which contains details of VAT collection and deposit for one calendar year. These provisions are contained in article 15 PER-12/PJ/2020. Referring to the existing collection system, there is no significant difference between PMSE VAT collection by designated digital service providers and VAT collection through PKP inauguration (Tofan and Triningsih, 2022). It's just that entities that are confirmed as PKP can take into account the input tax and output tax, in contrast to PMSE VAT which is not regulated regarding the crediting mechanism, so the VAT collected is fully deposited to the state (Wijaya and Nirvana, 2021). The enactment of digital taxation regulations seeks to meet fairness standards for business actors in Indonesia, the market inequality that had occurred due to differences in tax application by the government is now gradually being resolved through the issuance of PMSE VAT provisions for digital providers (Miftahudin and Irawan, 2020). Digital provider companies and conventional companies have the same business processes and systems, namely distributing products and services to consumers even though they have different ways, so that both of them have both carried out their obligations as VAT collectors for deliveries made (Tofan and Triningsih, 2022). The obligation to collect VAT for all income-generating entities in Indonesia seeks to eliminate discrimination in aspects of VAT treatment that has an impact on business competition for business actors (Widianto and Puspita, 2020).

1.3 Potential VAT Revenue on the Utilization of Overseas OTT-Based Movie Streaming and Music in Indonesia

Indonesia is the country with the fastest increase in access time for streaming videos, both music and movies in the world, which reached 140% compared to 2019. The rapid increase in access time for streaming is due to the many entertainment options that can be enjoyed and not only from Indonesia. but accessible entertainment produced abroad, also due to low subscription costs. The following is a list of applications with the lowest subscription fees in Indonesia:

Table 1. List of Cheapest Streaming Subscription Fees

App Name	Subscription Fee	Time period
Disney+ Hotstar	Rp 20.000	1 Month
Viu	Rp 30.000	1 Month
Iflix	Rp 39.000	1 Month
Vidio	Rp 29.000	1 Month
GoPlay	Rp 89.000	1 Month
Catch Play	Rp 45.000	1 Month
Netflix	Rp 54.000	1 Month

Source: Documentation on Application, 20 July 2022

Referring to Table 4.1, people need rupiah that does not exceed Rp. 100,000 in 1 month to enjoy digital entertainment. In addition to buying directly through the application, subscribing to the streaming application can be done by purchasing a bundling package. The bundling purchase method is a joint purchase by setting a single price for more than one product (Moeniri, 2017), in which certain providers of digital streaming subscriptions are sold in one package with their internet quota (Nugroho, 2022).

State revenues, especially from the taxation sector, have been successfully assisted through optimal collection of VAT for the use of digital services. VAT revenue is obtained through the submission of BKPTB and/or JKP that occurs. Seeing the significant use of digital entertainment content in the form of streaming Film/TV and music in Indonesia, it is the highest contributor to PMSE VAT. This is in accordance with the philosophy, the higher the transfer mutation, the higher the value of the collection (Wijaya and Nirvana, 2021). Referring to the report on the realization of VAT receipts by the DGT, PMSE VAT receipts belong to the Other VAT group which managed to contribute 1% of the total VAT receipts in 2021.

Table 2. PMSE VAT Receipt Realization in 2020 and 2021

Deposit Name	Year		Grand Total
	2020	2021	
111. VAT from PMSE activities	731.471.199.266	3.903.414.423.209	4.634.885.622.475

Source: Directorate General of Taxes, 2022

The increase in revenue in 2021 reached 68% compared to 2020 when the PMSE VAT collection provisions came into effect. The increase was caused not only by the addition of PMSE VAT collectors which reached 115 digital providers, but also by the increase in consumption of digital services by the Indonesian people (Mustofiyah et al., 2021). The reality on the ground for the growth of digital entertainment consumers is supported by various factors, one of which is the dense population of Indonesia. According to data compiled on the official website bps.go.id, as of December 31, 2021, Indonesia's population reached 272,682.5 million with a population of 174,415.3 productive age or 63.96% of the total population of Indonesia. Considering this, Indonesia is a potential target market for marketing both digital products and services, plus the number of people who are connected to the internet has reached 202.6 million people or 74.32% of the total population of Indonesia. The large population in Indonesia, supported by the almost even distribution of internet usage, plus the affordable subscription fees, is a reasonable reason why Indonesia's digital entertainment access time is growing very rapidly.

Conclusion

The analysis that the researchers conducted found that the taxation aspects identified from digital economic activities in Indonesia were PPh and VAT. The implementation of the PPh type of tax provisions by foreign digital providers has been implemented through the enactment of Law no. 2 of 2020. In this regulation, the BUT criteria have been updated to become a significant economy present. State revenues through the collection of PPh cannot be carried out optimally, due to the tax treaty. The tax aspect of the type of VAT has been implemented in Indonesia through PMK No. 60/PMK.030/2022 which regulates the mechanism for the appointment, deposit, and reporting of VAT on digital entertainment consumption from abroad in Indonesia.

The PMSE VAT tax system applies an official assessment system, namely the tax calculation and collection is carried out by the tax authorities, which in this case is the tax authority. The implementation of VAT collection is delegated by the government to digital providers directly. Digital providers act as an extension of the government in terms of VAT taxation. The nature of the product and the transaction mechanism that is carried out directly between producers abroad and consumers in Indonesia causes the government in collecting VAT to require the assistance of digital providers to carry out its taxation.

Indonesia's population is relatively high and the percentage of internet users reaches 74.32% of the total population of Indonesia, reflecting that Indonesia is a potential market for marketing digital products from various countries. There is a high potential for tax revenue from the use of streaming services in Indonesia, especially the type of VAT that is levied on each submission of BKP and/or JKP in Indonesia. This is reflected in the transaction value in the digital economy which is relatively high in Indonesia and is predicted to continue to increase, as well as the growth in access time for streaming services which reaches 140%.

The huge potential that must be explored and optimized for revenue is not only trying to get a contribution from the facilities used by digital providers, but also trying to fulfill the budget function and the function of regulating people's consumption patterns. The government's remaining homework is to try to design effective and fair monitoring arrangements for every business actor, both conventional and digital, so that the government's efforts to overcome inequality (uneven playing level) can be achieved.

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