

The Urgency of Regulating Taxation on Online Business in Instagram Platform

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Abstract--In this digital era, Instagram becomes a platform which demand by many people. With that phenomenon, the number of online businessmen on Instagram is growing rapidly and they are obtaining a lot of income. This income is very potential to become state revenue. However, many people who conduct online business on Instagram do not give any contribution to the state in the form of tax. This paper aims to analyze the urgency of regulating taxation on online business in the Instagram platform. Furthermore, this paper also proposes the form of its regulation and matters to be regulated. This paper is a result of normative legal research with a statutory and analytical approach. The results of this research indicate that tax toward online businessmen on Instagram is necessary to be enforced considering there are a large number of online businessmen on Instagram earning a lot of income but they are not taxed due to lack of specific imperative rules. Hence, the Government supposes to issue a further regulation to impose a tax upon the income of online businessmen on Instagram which rules Instagrammers' income is qualified as a taxable income and value added tax as meant by the Indonesian Tax Law.

Keywords- *Income Tax; Instagram; Online Business*

I. INTRODUCTION

Tax is a social wealth that must be given to the state without receiving an award that is received by the people directly from the state and has been regulated in legislation to public welfare. In the context of people's tax payments, the question that often arises is what is the public money that must be paid as taxes, what are the basis of taxpayer payments, how much tax must be paid, and when to pay the tax.

Along with the level of economic and technological growth in Indonesia, the enforcement of tax collection by the Government to the Indonesian people needs to be improved. This is due to the amount of tax given by the public to the state so it can be ascertained that the Government will become easier in financing Government activities and equitable infrastructure development.

In this digital era, online business in Indonesia has begun to develop following the media convergence. Paquette says online markets and retailers can get the advantages of social networking sites to reach consumers and profit by offering new ways to shop. One of the social networking sites that can be used to sell goods and services is Instagram.

In 2019, We are Social Hootsuite website released a survey of Indonesian Digital Report 2019 that the total active social media users in Indonesia in early 2019 reached 150 million people and 80% of the active social media users were Instagram users and the average age of Instagram users ranged between 18 to 24 years. The data shows that active Instagram users increased by 15% from the number of Instagram users in 2018.[1]

At present, many businessmen ranging from young people to the adults choose to sell their goods or services on Instagram because the profile display on the Instagram application is very suitable to be used for display a catalog of selling products compared to other social media such as Facebook, Twitter and Telegram. Because it looks simple and clear.

Therefore, businessmen tend to choose Instagram as their business platform. Furthermore, people (consumer) can quickly search for product items by simply open on the online shop's account profile and scroll through their feed accounts. People also can know clearly the variety of product based on the caption. In addition, the online shop's Instagram posts may circulate in the "explore" menu of other Instagram accounts. So, those reasons make the researcher interested in discussing the research's topic because of the convenience of doing business on Instagram.

All of the aspects give possibility of new entrepreneurs on Instagram. So, it can be predicted that the state can get more income from taxes made by these online businesses. But the big mistake of online businessmen on Instagram is they do not realize that getting money from Instagram business activities need to be reporting as income tax and value added tax.

In Indonesia, the taxpayers who get income from the online business in the Instagram platform has low awareness in paying taxes to the Government. It has happened because the tax regulation related to

the income of Instagram online business has not been established by the Government.

On Madonna Natalia studies about the analysis of individual taxpayers in certain entrepreneurs on online shopping through social media under Indonesia Regulation. She analyzed the existing regulation that sufficient to be implemented for an online individual taxpayer in certain entrepreneurs. But, this research has the objectives to discuss the overview of the urgency of taxation on business online in the Instagram platform as an additional provision to increase the tax toward income of business online on Instagram platform in Indonesia.

Besides, this research also gives an analysis for further regulation to impose a tax upon the income of online businessmen on Instagram and matters to be regulated. It is believed that the finding from this research has different contributions from other previous research, because this research is a new issue in the field of taxation and the topic also has not been discussed, the taxation system of all business that can be conducted in Instagram Platform.

II. PROBLEMS

First, what are the urgency of regulating taxation on online business in the Instagram platform?

Second, how does the implementation of further regulation to impose a tax upon the income of online businessmen on Instagram?

III. RESEARCH METHOD

This research attempts to study the urgency of regulating taxation on online business in Instagram platform and analyzed the implementation of further regulation to impose a tax upon the income of online businessmen on Instagram. The research paper conducting normative-empirical legal research.

So, this research was done by searching and surveying the data through direct observation and conducting an interview with competent interviewees to find out the facts the urgency of regulating taxation on online business on Instagram Platform. The researcher also observes the interview with online businessmen on Instagram Platform and the tax officer.[2]

Besides, the researcher also analyzed the applicable law and literature related to the research's topic. Thus, this research analyzed how the existing law work in the case of the taxation on online business on the Instagram Platform.

Descriptive research with qualitative-approach has been used in conducting this research. Descriptive research describes data about the urgency of regulating taxation on online business in Instagram platform.

This study is based on primary, secondary, and tertiary data. The primary data was collected from the result of interview with the online businessmen on Instagram and the tax officer. While, the secondary data was efficiently collected through library research and the tertiary data from dictionary and encyclopedia.

The respondent of interview was 10 (ten) online businessmen on Instagram and one of informant from the tax officer. Those online businessmen on Instagram are the owner of clothing online shop on Instagram, A photographer who doing their business on Instagram, Influencers on Instagram, and the owner of the online market on Instagram.

IV. DISCUSSION

A. The Urgency of Regulating Taxation on Online Business Using Instagram Platform

Online business on Instagram Platform is continuously growing and giving possibilities for many people to get more profit in their business. However, in the field of taxation on online business in Instagram has many complicated problems, one of which there are many online business people on Instagram do not pay taxes towards their income from the online business on Instagram and only a few online businessmen on Instagram already have NPWP (Tax Identification Number). Thus, this paper shows that the taxation of online business on Instagram has become the important issue for the following reasons:

1. A Large Number of Online Businessmen on Instagram Platform

The use of online businesses in driving increased sales volumes and product promotions has proven to be effective.[3] Many offline businessmen also use Instagram as their promotional media. With so many business people who use Instagram as a buying and selling media, it is proper for online businessmen on Instagram to report themselves as taxpayers by having a Taxpayer Identification Number (NPWP). NPWP is an identity of the taxpayer in carrying out his rights and obligations in taxation to be able to maintain order in tax payment and supervision of tax administration.[4]

In the research of Loo, Mckerchar, and Hansford which states that the ability to detect taxpayers has a significant influence on taxpayer behaviour to comply with the applicable tax regulation.[5] However, the government especially the Directorate General of Taxation (DJP) is still difficult to detect who owns the online business account on Instagram. This is a problem for the government, because even though the number of online businessmen on Instagram is growing fast in Indonesia, but the Government still has obstacles in implementing tax enforcement for online businessmen on Instagram.

One of the Government's efforts for Instagram online business taxation is on January 15th, 2019, the Minister of Finance Sri Mulyani has issued PMK No. 210/ PMK.010/ 2018 concerning the Tax Treatment of Trade Transaction through Electronic System, which in the regulation also regulates taxation for online business on Instagram as one of the social media that is used as a business platform. However, on March 29th, 2019, that Finance Minister Decree (PMK) was revoked due to rejection from the society because society assumes that PMK as the new regulation for the online businessmen which will make difficulty for them.

So, the government needs to do more socialization related to this issue so the online businessmen can be easily detected and the online businessmen on Instagram can understand the importance of paying taxes to the government. Then, this PMK will be issued again with improvements from the previous PMK.

2. A Lot of Income that Obtains from Online Business on Instagram

The use of Instagram as an online business media plays a role in the labour efficiency and operational costs required in sales. The main objective of Instagram users is looking at photos and videos. But around 11% of U.S social media users doing online shopping on Instagram and 81% of people use Instagram to help research products and services.[6]

Figure 1. The average income of Influencers on Instagram

	Nano (500-5k followers)	Micro (5k-30k followers)	Power (30k-500k followers)	Celebrity (500k+ followers)
Instagram				
Post	\$100	\$172	\$507	\$2,065
Video	\$114	\$219	\$775	\$3,138
Story	\$43	\$73	\$210	\$721
YouTube Video	\$315	\$908	\$782	\$3,857
Facebook Post	\$31	\$318	\$243	\$2,400

Source: <https://blog.hootsuite.com/instagram-statistics/>

That data shows about the average income of influencer on Instagram. On average, they can get \$114 until \$3, 138 for video posting and for Instagram story review around \$43 until \$721. With the convenience and easy way conducting online business on Instagram Platform, the online businessmen on Instagram can sell their products or services quickly and gain a lot of income.

With that income, online businessmen on Instagram should pay taxes on the income earned. A lot of income should also be balanced with a lot of

tax as well. This has been applied by several developed countries in the world.

3. Instagram Online Business Tax Will Increase State Revenue (APBN)

The development of online business on Instagram should be accompanied by the increased state revenue from the tax sector. However, in reality, the state revenue in the tax sector is still far from the target. One of the reasons is the level of taxpayer compliance which more decreasing. Associated with online business on Instagram, the taxpayers (online businessmen on Instagram) have not reported themselves to the government as taxpayers as happened to several respondents in this paper's interview.

For the online businessmen on Instagram who have income not more than Rp 4.800.000.000,00 (four billion eight hundred million rupiah) in 1 (one) fiscal year, they can pay his tax tariff 0.5% (zero-point five percent) of the gross circulation of their final income. It is based on Government Regulation Number 23 of 2018 concerning Income Tax on Income of Businesses Received by Taxpayers who have a Specific Gross Distribution. Whereas for online businessmen on Instagram that has a gross circulation in the Tax Year exceeding Rp 4.800.000.000,00 (four billion eight hundred million rupiah) for the income from their business, they are subject to income tax rates under Article 17 of The Law No, 36 of 2008 concerning income tax. Supposedly, with the tax received from online businessmen on Instagram can significantly increase state revenue in Indonesia.

4. Instagram Online Business Taxation from the Income Tax (PPH) and Value Added Tax (PPN) Perspective

In the Indonesian regulation, there is no difference in taxation aspects between online business on Instagram and conventional business, because the status of the tax object is the same. For income tax, the object of the tax is the income itself that is obtained through online and offline transactions.

So, any additional income received by taxpayers and to increase the wealth of taxpayers must be subject to income tax. In Indonesia, income tax is regulated in the Law No. 36 of 2008 concerning income tax. So, income received from online and offline business is the object of income tax.

In addition, online businessmen on Instagram are also subject to Value Added Tax, if they have gross receipts exceeding Rp 4.800.000.000,00 (four billion eight hundred million rupiah) in a year. In Indonesia, Value Added Tax (VAT) is regulated in the Law No. 42 of 2009 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods. The existence of VAT withdrawal action

against online businessmen on Instagram or can be referred as a digital company to create justice (level playing field) for companies listed as tax subjects who pay taxes to the Government.[7]

B. The Implementation of Further Regulation to Impose a Tax upon the Income of Online Businessmen on Instagram

The issue of online business taxation on Instagram become a big fiscal policy for many countries including Indonesia. This problem was similar in the US since 1998 to date. In 1998, the US Congress passed the 1998 Internet Tax Freedom Act which restricts new internet-related taxes. The moratorium states that there should be no new taxes on internet access.[8]

On the other hand, various states have issued "Amazon laws" which treat online sales in a similar way with physical sales are taxed.[9] It is also happened in Indonesia in the current time.

Regarding to the implementation of further regulation to impose a tax upon the income of online businessmen on Instagram in Indonesia, the question will arise is whether the taxation regulation will break the development of Instagram's online business in Indonesia or not.

However, if Indonesia do not impose taxes of online business on Instagram due to Instagram online business is an infant industry is not a strong reason, because the protection of the infant industry often changes to an established industry protection.[10]

Moreover, the Indonesian Government needs time to understand and prepare regarding the implementation of appropriate tax regulation for online businessmen on Instagram to suit Indonesia's own mentality and finances.

So, looking into the complexity of the transaction system in online business on Instagram, the government requires to takes attention on the taxation policy of online business from other country to avoiding the failure in the implementation of the further regulation for online businessmen on Instagram, such as:[11]

1. European Union

Along with the growing online trade, the European Union enforces new regulations related to online trade. As a regional organization, the European Union does not collect VAT or corporate tax, but in 2015 provided a Mini One Stop Shop (MOSS), an online service that provides a platform for companies to comply with value added tax regulations in countries where goods / services are traded.

MOSS means that online companies do not need to register with tax authorities in every European Union country, but online companies can directly register, submit, and request VAT refunds in one place. There are two schemes in MOSS namely the union scheme, for businesses established in European Union countries or at least one branch based in an EU country. Second, the non-union scheme. This is for businesses that are not established in EU countries and without branches in EU countries.

This scheme aims to make it easier for companies to manage tax collection from consumers. Under the scheme, EU member states must adjust tax regulations to online trade in their respective countries. Although the presentation of value added tax varies. For the example, Germany applies a value added tax of 19%, France 20%, and Hungary 27%. [12]

Based on this policy made by the European Union, Indonesia can also implement policies such as MOSS with other ASEAN countries as a regional organization for countries in the Southeast Asian region in order to implement tax policies for online businesses on Instagram.

2. Australia

On June 21st, 2017, the Australian Parliament has implemented the application of goods and services consumption tax to online trade. In the regulation, AUD10 thousand is set as the lower value of online sales transactions that are taxed (low value imported goods). So, every online transaction that is worth over AUD 10 thousand will be taxed 10% of the total transaction value.

In addition, for online companies that have income above UAD 75 thousand per year, they must register with the Australian tax office and are required to collect taxes to consumers in accordance with applicable Australian tax rules.

Actually, the policies implemented by Australia are similar to the tax policies implemented by the Indonesian government in imposing income tax and value added tax with the minimum income earned by the taxpayer.

Thus, Indonesia can impose taxes like Australia. Where there is a minimum income limit that must be taxed. That way, online businesses on Instagram who are just starting out and have a small income are not burdened with existing tax policies.

3. South Korea

Unlike Australia, South Korea does not set a threshold for taxable online transactions. However, each company is required to register value added into the electronic taxation service system regardless of the nominal transaction. The tax tariff applied in

South Korea is 10%. This tax rate also applies to non-physical goods being sold and applies to every company that sells goods in South Korea even though the company does not have a branch office in South Korea. This fact shows that South Korea does not want to lose any tax revenue from online business.

Based on the researcher opinion, this policy is not suitable applied in Indonesia. If the implementation of tax rates is leveled, there will be injustice for online business people and conventional business people in Indonesia. Given the form and income obtained by every businessmen are different.

4. India

India applies the Equalization Levy Rules (EQL), namely the application of a tax levy of 6% of the gross value of transactions to domestic tax subjects and foreign tax subjects in India for business to business transactions that exceed a certain limit. This tax levy is a levy other than income tax. However, this system is categorized as PNB (Non-Tax State Revenue). So, EQL cannot help in increasing the level of tax compliance. In addition to these regulations, India also applies a tax on online advertising services that is determined at a later rate. This method is considered to anticipate tax avoidance.

The researcher assumes that India policy on online business taxation is not properly enforced in Indonesia because India does not focus on the tax collection for online business.

5. China

China apply the VAT enforcement schedule for some goods sold via e-commerce. This system is based on a certain timeframe. For the example, if a goods subject to 2% of VAT for certain years, while the other goods also can be subject to 5% of VAT in a period. At the end, all of them will get a VAT value of 10%.

The policy carried out by China can also be implemented in Indonesia by applying tariffs at a certain time and in the end the tariff will get a VAT value. But, if we remember the low level of understanding and compliance of taxpayers in Indonesia, it is assumed that this policy will not work effectively.

6. Japan

Japan created a PROTECT (Professional Team for Ecommerce Taxation) which was formed in each region to detect e-commerce businesses that do not pay taxes. With this special unit, taxation from e-commerce business in Japan runs quite effectively.

As an archipelagic country, Indonesia can also imitate Japanese policy by forming a spesific team

to regulate online business taxation on Instagram in each region. So, the taxation on online business in Instagram can run effectively and easy to detect.

7. Albania

In order to handle online business taxes, Albania implements an online invoicing system to stop tax avoidance. The implementation of this regulation will begin in early 2021 whereby every business transaction and transaction with the tax authority will be electronic.[13]

As we know that the development of the digital economy in the World has given rise to new challenges in the field of taxation. Changing the taxation system is not as easy, so there are various types of challenges that need to be examined. Based on the results of this study, there are 4 underlying obstacles faced by online businessmen on Instagram still do not paying taxes. Thus, the government can consider matters that need to be regulated and overcome for the sake of the creation of futher regulations that provide justice, namely:

1. No Clear Regulations on Tax of Online Business on Instagram Platform

In Indonesia, taxation regulations for online businesses on Instagram are treated the same as conventional business taxation guidelines. The government should also make specific or additional rules governing taxes for online businesses on Instagram, both in terms of income tax or value-added tax. That is a way for created justice and legal certainty among online businesses on Instagram and conventional business people.

Related to the absence of specific tax regulations for online businesses on Instagram, it influences the compliance of the online business on Instagram in paying taxes to government. From the results of the researchers' interview with a tax official from the Central Directorate General of Taxation Office in Jakarta, he said that specific rules for online taxation of businesses on Instagram might not be made.

However, the government is working on the existence of additional rules as an affirmation related to this issue. The example is the regulation that makes it easy for NPWP registration for online businesses on Instagram. This is caused by the difficulty of Directorate General of Taxation to detect who is the owner of an online business on Instagram because in an online business account on Instagram does not mention the owner's name and identity number (KTP Number) to check the NPWP and know the Instagram online businessmen's history of taxation data.

Furthermore, for businessmen on Instagram who have not paid taxes, it would be better if they subject to legal sanctions rather than moral sanctions to improve tax compliance in this developing country

whose per capita income is still low. Because the application of legal sanctions will have more effective in increasing taxpayer compliance than on the application of moral sanctions.[14]

2. Lack of Understanding and Knowledge on the Importance of Paying Taxes Towards Income of Online Business on Instagram Platform

Many online businessmen on Instagram have a lack of understanding and knowledge on the important of paying taxes to the government. This problem happens because they have a perspective that tax procedures and tax regulation in Indonesia are complicated. However, difficulties in understanding the contents of tax regulations due to the complexity of tax regulations also affect taxpayer compliance.

In another word, a complex taxation system also will affect the low compliance of taxpayers, because of the lack of understanding and knowledge of taxpayers about the taxation system.[15] This resulted in many online businesses on Instagram being reluctant to pay taxes and lack of awareness to pay taxes. The impact of this is that the government will impose sanctions on taxpayers, both in the form of administrative sanctions and criminal sanctions.

The ability of the government to detect tax evaders and punish taxpayers who do not pay taxes has a significant impact on the compliance of forced taxpayers.[16] And if the taxpayers (online business on Instagram) have a positive understanding or perception about taxes, the awareness of paying taxes will also increase.[17]

3. Lack of Quality of Tax Services Provided to Taxpayers (Online Businessmen on Instagram)

A tax collection system based on Self-Assessment requires a high level of awareness and compliance from taxpayers. One effort to improve taxpayer compliance in paying taxes with the Self-Assessment system is to improve the quality of tax services. Thus, lack of tax service provided by the officer will become an obstacle for businessmen on Instagram not paying taxes to the Government.

In the research of Popi Fauziati and Arfin Syahri[18] it was mentioned that several indicators of quality fiscus services include the fiscus must have expertise, knowledge, and experience that are qualified in the fields of taxation, tax administration, and tax legislation. Moreover, the tax authorities must also have high dedication and motivation as public servants in the field of taxation.

However, based on the research of Moh. Yudi Mahadianto and Apri Dwi Astuti[19] the trust of

taxpayers to the authority or tax officials does not affected on voluntary tax compliance. Because there are still many cases of taxation corruption carried out by the authorities. In this regard, several respondents in this research also argue that the laws in force in Indonesia have not been completely resolved in dealing with the many cases of tax evasion in Indonesia.

Therefore, in this study concluded that the compliance of online businessmen on Instagram in paying taxes is also influenced by the quality of tax services provided. This conclusion is under the results of the research of Fuadi and Mangoting (2013) states that an increase in taxpayer compliance affects the service quality of tax officers partially.[20]

4. No Physical Evidence of Online Business Transaction on Instagram Platform

Online business transactions on Instagram are developing so fast in such a short time, no doubt online business transactions on Instagram can cross geographic boundaries between countries. Moreover, the forms of goods and services offered by online businesses on Instagram can also be digital such as applications, music, photo presets, computer software, and others.

All the more, related to the absence of a real place and no evidence of business transaction that are taxed in the sale on online business in Instagram has an impact on the difficulty of the Government in detecting the presence of online businesses on Instagram. Therefore, tax collection from the online business sector on Instagram is less than optimal.

Along with the development of buying and selling digital goods, especially in the online system, the Indonesian Government made a new regulation to collect taxes on digital products, namely Government Regulation No. 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling Corona Virus Disease (COVID-19) and / or in the context of Dealing with Threats that Harm the National Economy and / or Financial System Stability.

Based on that regulation, the government has authority to collect income tax and VAT tax on digital goods originating from abroad and sold in Indonesia. Then, in the imposition of the digital tax regulation is not required for physical presence, but the substantial economic presence. If the seller gets income from Indonesia, then it is considered to have an economic presence in Indonesia as mention in the article 6 paragraph 7 of Government Regulation No. 1 of 2020 concerning State Financial Policies and Financial System Stability for Handling Corona Virus Disease (COVID-19) and / or in the context of

Dealing with Threats that Harm the National Economy and / or Financial System Stability)

V. CONCLUSION

Taxation on online businesses using the Instagram Platform is an important issue that needs to be affirmed in the present because the rapid development of online business on Instagram has led many online businessmen on Instagram earning big income. The income from online businesses on Instagram may be subject as an object of income tax and value-added tax based on the Law No. 36 of 2008 concerning income tax and the Law No. 42 of 2009 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods. So, from the tax of online businessmen on Instagram can increase the revenue of Indonesia from the tax sector.

Besides, there are 4 (four) underlying factors that become obstacles faced by the businessmen on Instagram in paying taxes. First, there are no clear regulations on the tax of online business on the Instagram Platform. Second, lack of understanding and knowledge of the importance of paying taxes towards the income of online business on the Instagram platform. Third, lack of quality of tax services provided to taxpayers (Online Businessmen on Instagram). The last obstacle is no physical evidence of online business transactions on the Instagram Platform. Those obstacles affect tax collection from online businesses on Instagram is less than optimal

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