CHAPTER I
INTRODUCTION

A. Background of Study

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

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

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]

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

[4] Radicic, 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.

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

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

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

[7] Evans, P., & Gawer, A, "The Rise of the Platform Enterprise: A Global Survey", *University of Surrey and Boston University*, (2016), p. 27.
[8] Varian, H. R., Farrell, J., & Shapiro, C, *The Economics of Information Technology: An Introduction.* Cambridge University Press, (2004), p. 65.

supports traditional businesses, thereby reinforcing the importance of contract law in maintaining a structured and accountable business environment.

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]

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[9] DBS 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)

[10] Kominfo (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)

The success of Indonesia's digital economy is not only reflected in the increasing number of transactions but also in its ability to accommodate various segments of society, including those who were previously not involved in digital economic activities. By engaging a large number of micro-entrepreneurs, e-commerce has become a driving force for inclusive economic growth, assisting small businesses to compete on a broader scale. But also has a positive impact on the national economy by creating new jobs and increasing purchasing power among the populace. With the continued development of the e-commerce ecosystem, Indonesia remains a key player in driving innovation and digital economic growth in the Southeast Asian region.[11]

According to a survey conducted by PayPal, social media has become the dominant platform for e-commerce transactions in Indonesia, reaching a staggering 80%. Among the various social media platforms, Facebook stands out as the most widely used, accounting for a share of 92%.[12] This indicates that consumer interactions and commercial activities significantly occur within the social media environment, where businesses can directly engage with potential customers.

Additionally, the survey conducted by the Indonesian E-commerce Association (IdEA) also reveals that approximately 16% of consumers still prefer to transact through marketplace platforms such as Tokopedia, Bukalapak,

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[11] Kominfo. (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).

[12] Katadata. (1st April 2019). *Paypal: Transaksi E-commerce Indonesia 80% di Media Sosial.* https://databoks.katadata.co.id/datapublish/2019/04/01/paypal-transaksi-e-commerce-indonesia-80-di-media-sosial, (Retrieved on 19th March 2024)

and Shopee. Although the percentage is lower compared to social media, the presence of marketplace platforms remains an essential element in Indonesia's e-commerce ecosystem.[13] This indicates that while social media plays a significant role in connecting consumers and sellers, marketplace platforms still hold a significant market share, providing consumers with various options in conducting their online trading activities.

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

[13] Katadata. (1st April 2019) *Paypal: Transaksi E-commerce Indonesia 80% di Media Sosial.* https://databoks.katadata.co.id/datapublish/2019/04/01/paypal-transaksi-e-commerce-indonesia-80-di-media-sosial, (Retrieved on 19th March 2024)

platforms involving service providers, sellers, and buyers. Service providers include Lazada.co.id, Olx.co.id, Bukalapak.com, and Tokopedia.com.

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.

Tax systems that must accommodate new business models and various online transactions are the government's main focus in addressing these issues. Additionally, closer coordination between tax authorities and e-commerce platforms is key to enhancing transparency and efficiency in tax collection, as well as ensuring tax compliance from all parties involved.

Increasing awareness and education among e-commerce stakeholders about tax obligations are also important parts of the long-term solution. This will not only create fair and balanced conditions in business competition but also ensure a greater contribution to state tax revenues, which in turn can be used to support infrastructure development, public services, and social programs.[14] In the context of traditional commerce, it's customary for taxation to be applied. However, the situation becomes intriguing when buying and selling transactions are intertwined with technological advancements, resulting in a significant

[14] Syafitri Nur Aini. Strategi Kesiapan Implementasi Pajak Penghasilan *E-Commerce. Skripsi.* Universitas Negeri Semarang, (2020), p. 61.

increase in transactions. This is primarily because such transactions contribute to state income through taxes. Consequently, e-commerce, governed by the principles of civil law in buying and selling, plays a pivotal role in the taxation sector. Nevertheless, numerous factors require consideration due to disparities between conventional and e-commerce transactions. This sets the stage for further exploration in problem formulation.

B. Problems Formulation

Based on the discussion above, the problems formulation in this research are as follows:

1. Why is understanding the concept of e-commerce important in the context of civil law?
2. How are the implications of e-commerce on tax collection in Indonesia?

C. Research Objectives

1. To understand the importance the e-commerce in the context of civil law.
2. To understand the implications of e-commerce on tax collection in Indonesia.

D. Research Significance

1. Theoretical Benefits
    a. The research results can contribute to theoretical understanding of the relationship between civil law, e-commerce, and the tax system in Indonesia.
    b. It expands the existing legal literature in the fields of civil law and taxation related to e-commerce.

c. It provides guidance to e-commerce businesses to understand relevant legal and tax obligations.

2. Practical Benefits

   a. It helps identify risks and opportunities related to e-commerce business operations.

   b. It serves as a source of information for policymakers to design more effective regulations governing e-commerce in Indonesia.

   c. It has the potential to enhance business practices that are more sustainable and legal policies that are responsive to the development of e-commerce.