

CHAPTER ONE

INTRODUCTION

A. Background of Research

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.

Based on data from the Ministry of Finance, the State Budget of the Republic of Indonesia in 2019 amounting to 2,165.1 T which taxation revenues amounted to 1,786.4 T, so it can be concluded that the largest state revenue comes from Taxes.¹ This shows that the Tax Revenues make a dominant contribution to State Income and can reduce financing needs that originate from the debt.

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.

¹ Kementrian Keuangan, 2019, "Postur Anggaran #APBN2019", taken from <https://www.kemenkeu.go.id/apbn2019>, accessed on Oktober 3rd, 2019, at 5.33 p.m.

In the beginning, the tax was a voluntary gift from the people to participate in maintaining the survival of their country. It was carried out by the people of Ancient Greece and continued until the fall of Western Rome in 476 AD. At that time, the term of tax was not known because the expenses of the kings and the needs of the state were still financed by the income from the king's wealth, if the needs and expenditures needed were too much then voluntary contributions were requested from the people.²

With the changing of times, the voluntary giving of taxes by the people to the country turns into forced requests. This happened because of the expansion of the colony's country. To avoid the forms of coercion as in the past, then the state made a law governing taxation. The reason for the drafting of this law is not only for the sake of forced tax collection but to carry out the Government's tasks in meeting the cost of the country's needs. Thus, as happened in this current time, taxation is a source of state financial revenue, which collected by the government based on the applicable law.³

Article 23A of the 1945 Constitution states that taxes and other levies that are coercive for the country are regulated by the law. From that provision, it is clear that the taxation provisions must be regulated by a legal product made by the President together with the House of Representatives. This is related to Article 5 paragraph (1) of the 1945 Constitution which in making the law, the President requires approval from the DPR. The DPR's approval is a forum for

² SF Marbun & Moh. Mahfud MD, 1987, *Pokok-Pokok Hukum Administrasi Negara*, Yogyakarta, Liberty Yogyakarta, p. 131.

³ *Ibid*

the people's representatives. So, if the House of Representative (DPR) has approved the law on tax collection, it means that people have agreed to it formally. On the other hand, tax regulations must be based on the law means that the Government cannot act arbitrarily in collecting taxes.

Article 23A of the 1945 Constitution is the result of a long process. The beginning of the regulations on taxation in Indonesia followed the regulations made by the Dutch Government. The enactment of the taxation laws from the Dutch Government is based on the Transitional Rules Article II of the 1945 Constitution. The regulations of the Dutch Government products were applied from the time of Indonesian independence until 1983.

The laws and regulations of the Dutch Colonial products had some changes because it considered not following the goals of the Indonesian State. Moreover, the Tax Provisions that are applied until now including:

- a. The Law No. 16 of 2009 concerning General Provisions and Tax Procedures
- b. The Law No. 36 of 2008 concerning Income Tax
- c. The Law No. 42 of 2009 concerning Value Added Tax and Law on Sales of Luxury Goods
- d. The Law No. 13 of 1985 concerning Stamp Duty
- e. The Law No. 2 of 2012 concerning Acquisition of Land Rights and/ or Building
- f. The Law No. 19 of 2000 concerning Tax Collection by Forced Letter
- g. The Law No. 17 of 1997 concerning Tax Dispute Resolution Agency
- h. The Law No. 14 of 2002 concerning Tax Court

i. The Law No. 28 of 2009 concerning Regional Tax and Regional Retribution

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.

Instagram is one of the most popular social media for photo and video sharing in Indonesia. With Instagram, people is easier in conducting online business activities, just by uploading product photos, product information, and information on how to order these products in one place. So, customers can know the information before they purchase the product.⁴

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 2018.⁵

In the large possibility of prospective new entrepreneurs on Instagram, it can be predicted that the state can get more income from taxes made by these

⁴ Kusumah, Ryan, 2015, "Analyze the Effect of Trust, Price, Quality and Perceived Risk Toward Consumer Purchase Behavior in Online Shops Instagram", *Jurnal Berkala Ilmiah Efisiensi*, Vol. 15, No.5, p.356.

⁵ Andi Dwi Riyanto, 2019, "Hootsuite (We are social): Indonesia Digital Report 2019", taken from <https://andi.link/hootsuite-we-are-social-indonesian-digital-report-2019/>, access on October 14th, 2019, at 09:04 p.m.

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.

Personal Taxpayers from the total Personal Taxpayers registered with the tax authority namely as many as 18.3 million during 2018. The data proves that the awareness of taxpayers in Indonesia in carrying out the obligation to pay is still very low, causing the optimization of State Tax Revenue to affect.⁶

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 December 31st, 2018 Minister of Finance, Sri Mulyani issued Minister of Finance Decree No. 210/ PMK.010/2018 concerning the tax treatment of trade transactions through electronic (e-commerce). But, in early 2019, the Regulation was withdrawn and did not become enacted due to the following reasons such as Indonesia need more coordination between government agencies, socialization is needed so there is no community disparity, further strengthening of infrastructure, and still awaiting the results of the e-commerce association survey. This shows that the Government needs to be more assertive in preparing carefully the taxation rules for online businesses in Indonesia.

⁶ Chandra Gian Asmara, 2019, “Baru 25% Wajib Pajak yang Laport SPT, Anda Sudah?”, taken from <https://www.cnbcindonesia.com/news/20190311134322-4-59867/baru-25-wajib-pajak-yang-lapor-spt-anda-sudah>, accessed on Oktober 14th, 2019, at 9:42 p.m.

Sometimes, the regulation and policy in Indonesia have been ignored by some people. Therefore, in this paper, the author's interest discussed the urgency of taxation of online business in the Instagram platform as an additional provision to increase the tax income in Indonesia.

Finally, the background shows that some research dedicated to online business in Instagram such as Pijar Suciati studies how Instagram marketing techniques for online store and shows the way of online shop owners doing their marketing using the Instagram platform⁷, the second one is research by Ratri Primacy Rosa, Nurul Qomariah, Wenny Murtalining Tyas investigate how the influence of social commerce characteristics on consumer trust on online shop in Instagram⁸. They determine the influence of social commerce characteristics of online purchases on Instagram, and the third is Madonna Natalia studies about the analysis of individual taxpayers in certain entrepreneurs on online shopping through social media under Indonesia Regulation⁹. 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 give an overview of the urgency of taxation on business online in the Instagram platform and give an analysis on

⁷ Pijar Suciati, 2018, "Instagram Marketing Techniques for Online Store: A Descriptive Study", in the 2nd International Conference on Vocational Higher Education (ICVHE) 2017 "The Importance on Advancing Vocational Education to Meet Contemporary Labor Demands", KnE Social Sciences.

⁸ Ratri Primacy Rosa, Nurul Qomariah, Wenny Murtalining Tyas, 2018, "Impact of Social Commerce Characteristics on Consumer Trust on Online Shop in Instagram", in Conference Proceedings, CelSciTech-UMRI.

⁹ Madonna Natalia, 2017, "Judicial Analysis for Individual Taxpayer in Certain Entrepreneurs on Online Shopping Through Social Media Under Indonesia Regulation", Bachelor Thesis in Law Major, President University, Cikarang, Indonesia.

the obstacles faced by the online businessmen on Instagram in paying taxes. It is believed that the finding from this research has different contributions from other previous research, because it presents the topic which has not been discussed, the taxation system of all business that can be conducted in Instagram Platform.

B. Research Problems

Based on the background of the problem that has been explained, the researcher has the formulation of the following problems:

1. How is the urgency of taxation on online businesses using the Instagram platform in Indonesia?
2. What are the obstacles faced by the online businessmen on Instagram in paying taxes?

C. Objectives of Research

The objectives of this research cover:

1. To understand the importance of applying taxes for online businesses on the Instagram platform
2. To analyze the obstacles faced in applying taxes on online business through the Instagram platform, as well as providing solutions for implementing those taxes on online business

D. Benefits of Research

1. Theoretical Benefits

This research gives an understanding of the urgency of taxation on online business in the Instagram Platform in Indonesia and gives conceptual contributions to the development of State Administrative Law in general and tax law in particulars.

2. Practical Benefits

This research is expected to be able to provide recommendations in solving problems that occur in the implementation of taxes on online businessmen in the Instagram Platform.