



Legal Protection and Tax Collection Mechanism for Investors Using Cryptocurrency Exchange in Indonesia

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Abstract

This research aimed to determine the legal protection for investors using cryptocurrency exchange in Indonesia and the tax collection mechanism for investors using cryptocurrency exchange in Indonesia. This was normative juridical research. Since this type of research was doctrinal, normative legal research was more oriented to the practical aspect. From a juridical point of view, the approach was based on legal principles and then analyzed. The research data was obtained from previous research, journals, official websites, and relevant laws and regulations in Indonesia. Based on the results of the analysis related to investment activities using cryptocurrencies, in terms of Law No. 19 of 2016 which is a revision of Law No. 11 of 2008 concerning electronic information and transactions, legal problems often arise when there is information, communication and electronic transactions. As a regulator, the state has a role in consumer supervision and protection. Through the Commodity Futures Trading Regulatory Agency (BAPPEBTI), Bank Indonesia seek to have every cryptocurrency exchange registered so that it can trade the cryptocurrency assets. The mechanism for imposing cryptocurrency taxes or on trading cryptocurrency assets was by appointing a third party as a VAT collector for trading cryptocurrency assets. Cryptocurrency exchange was carried out by imposing VAT and income taxes and was combined with trading fees. So, the total deduction was 0.31% with the details, 0.1% trading fee added with VAT & 0.21% income tax.

Keywords: *Legal Protection; Tax; Cryptocurrency; Investor*

Introduction

Advances in technology and information encourage developments in other fields such as the development of payment and investment instruments. Cryptocurrency has been used as a means of payment in several countries and as a lucrative investment instrument. This is of course also increasingly recognized by the Indonesian people and even throughout the world with various types such as BTC, ETH, BNB, XRP, USDT and many more. (Saputra, 2018). Cryptocurrency can be used as a means of payment because users can send their cryptocurrency to cryptocurrency exchanges around the world or other people's cryptocurrency wallets quickly without government intervention (Xu et al., 2020). Then, the beneficiary can convert the accepted and cashable cryptocurrency through a bank that supports the cryptocurrency exchange. Cryptocurrencies are also declared as investment instruments because they can provide huge profits for investors (Nitha & Westra, 2020). There is also a cryptocurrency that has a stable

value, namely USDT which is equal to 1\$. In this case, each USDT must have support for the original American dollar (USD).

In Indonesia, payment instruments have been regulated in Law no. 23 of 1999 concerning Bank Indonesia which states that the payment system includes payment instruments and banking procedures. So, it is necessary to make a payment instrument to support the payment system so that it runs according to the procedure (Chang, 2019). Other conditions in the payment element include: generally accepted, have a value that tends to be stable, light and easy to carry, made of durable materials, has a quality that tends to be the same, the amount meets the needs of the community, is not easily counterfeited, and is easily divided without reducing value. Based on Law Number 7 of 2011 concerning Currency, as well as Bank Indonesia Regulation No. 17/3/PBI/2015 concerning the Obligation to Use Rupiah, the currency accepted as a means of payment in Indonesia is only Rupiah. However, it is permissible to use cryptocurrency as a commodity in the form of a digital asset and trade it or in other words it can be used as an investment tool (Yohandi et al., 2017). This is reinforced by the issuance of the Minister of Trade Regulation Number 99 of 2018 concerning General Policy for the Implementation of Cryptocurrency Asset Futures Trading (Cryptocurrency Assets) as well as several regulations issued by the Commodity Futures Trading Supervisory Agency (BAPPEBTI). (Puspasari, 2020).

There are already several cryptocurrency exchanges that are also supported by several banks in Indonesia to make withdrawals or deposits in the form of Rupiah (IDR) (Nitha & Westra, 2020). Several cryptocurrency exchanges that have been recognized by BAPPEBTI totaling 18 exchanges in 2022 include nanovest.io (PT Tumbuh Bersama Nano), tokocrypto.com (PT Aset Digital Berkat), incrypto.co.id (PT Aset Digital Indonesia), koinku.id (PT Cipta Koin Digital), galad.id (PT Galad Koin Indonesia), indodax.com (PT Indodax Nasional Indonesia), digitalexchange.id (PT Indonesia Digital Exchange), kriptomaksima.com (PT Kripto Maksima Koin), luno.com (PT Luno Indonesia LTD), kriptosukses.com (PT Mitra Kripto Sukses), pantheras.com (PT Pantheras Teknologi Internasional), pedagangasetkripto.com (PT Pedagang Aset Kripto), pintu.co.id (PT Pintu Kemana Saja), rekeningku.com (PT Rekeningku Dotcom Indonesia), TRIV.co.id (PT Tiga Inti Utama), bitocto.com (PT Triniti Investama Berkat), upbit.com and upbit.co.id (PT Upbit Exchange Indonesia), and zipmex.com (PT Zipmex Exchange Indonesia). Cryptocurrencies provide several investment advantages for their users when there is an increase in value because they tend to be faster than stock instruments. However, if the user does the wrong analysis in cryptocurrency investment, it will actually bring losses due to a decrease in value (Amsyar et al., 2020).

So far, cryptocurrencies are used as a business area by looking for differences or price differences where cryptocurrency purchases are made when the price drops and hopes to be sold later when the price rises or is high (Ilham et al., 2022). In addition to generating large and fast profits, cryptocurrencies certainly have big risks and carry large and fast losses because of their high volatility (Ilham et al., 2022). In addition, cryptocurrencies are also easily manipulated by bookies, large investors, and cryptocurrency issuers themselves (Jufriidar et al., 2021). Many cryptocurrencies are created by individuals so they do not have good fundamentals for investing. So, investors who just put their funds in without knowing the project, community, the use of the cryptocurrency they use for investment, tend to experience losses (Disemadi & Delvin, 2021).

In the current conditions in Indonesia, several exchanges that sell various types of cryptocurrencies have been circulating. However, Bank Indonesia, as a party to the government, has not banned the use of cryptocurrencies and considers it a legal investment instrument in Indonesia (Puspasari, 2020). On the other hand, its use and any risk of loss or loss regarding ownership and use of cryptocurrency is at your own risk and responsibility (Nurjannah & Artha, 2019). The presence has indeed caught the attention of the state. However, there is no clear written regulation regarding its circulation and supervision so far. Thus, it requires the formulation of policies and aspects of protection for investors or users in conducting transactions related to cryptocurrency investments (Widjaja, 2019).

Based on these issues, researchers are interested in analyzing legal protection for investors on cryptocurrency exchanges in Indonesia.

Given that more and more users are investing through cryptocurrency, the government must have considered that cryptocurrency assets have become a widely traded commodity in Indonesia and of course have met the criteria for the imposition of the Value Added Tax Law (VAT Law), which was last amended by the Tax Harmonization Law (HPP Law) (Maulani, 2021). Taxpayers are tax subjects who have an obligation to make tax payments on income from cryptocurrency transactions in the individual category. So, they are required to report it on the Annual Tax Return in accordance with the tax announcement principles that apply in Indonesia (Sundari & Venusita, 2021). However, as a cryptocurrency user, the lack of public awareness and knowledge about taxes can certainly hinder tax collection from cryptocurrency transactions. In this article, the author is also interested in analyzing the mechanism for collecting tax taxes from cryptocurrency assets.

Research Method

This is normative juridical research. Normative legal research is also known as doctrinal legal research (Ishaq, 2017). In this type of legal research, the law is usually conceptualized as what is written in the rules of law (law in books) or a legal model that has been conceptualized in writing as a rule or norm which is then used as a guide for human behavior and is considered appropriate. (Marzuki, 2008). Normative juridical research is often conceptualized in the form of research that refers to what is written in the norms and laws and regulations that apply in society. In this type of doctrinal research, normative legal research is more oriented to practical aspects. It is usually useful in resolving concrete legal issues or certain public matters. It is also carried out by legal practitioners in the form of disputes or just wanting to know how and where the legal issues have been regulated based on the facts of relevant legal research. It can even be cases that are relevant to the problem to be studied (Soekanto & Mamudji, 2020). From a juridical point of view, approaches are carried out on legal principles and then the problem is analyzed (Soekanto, 2012). Juridical factors are regulations or norms that have a relationship with books, journals, and other literature that can be used to write laws related to the law on the use of cryptocurrencies to be analyzed.

Analysis and Discussion

Legal Protection for Investors Using Cryptocurrency Exchange in Indonesia

Investors or cryptocurrency users make transactions through cryptocurrency exchanges that have been recognized in Indonesia. Therefore, the civil rights of these virtual currency traders must be protected (Puspasari, 2020). Based on article 5 of Law No. 21 of 2011 concerning the Financial Services Authority, it functions to organize an integrated system of regulation and supervision of the entire financial services sector. Based on a statement from Bank Indonesia in Law No. 7 of 2011 concerning currency, legal certainty is needed so that the use and circulation of currency in Indonesia has clarity. Some of the rights of investors that must be fulfilled are the right to security, the right to information, the right to vote and the right to be heard (Andrianto, 2022). Exchanges that have been registered by BAPPETI must meet several requirements so that investors feel safe using the exchange. Some forms of protection for cryptocurrency investors include (Nitha & Westra, 2020):

1. Protection of personal data of registered and verified members. The cryptocurrency exchange requires each member to perform KYC (Know Your Customer) in which investors must verify data according to their ID Card, number, email, telephone, and use a bank account that matches the username. Personal data of members or verified members is stored in a secure database and network where access rights to these data are only owned by a number of people and they are

required to maintain the confidentiality of the personal data so that it is not misused. In addition, if there is a case such as the loss of a cellphone in which there is a Google Authenticator so that the user cannot log in to the account, personal data can be useful to apply for access without Google Authenticator. Identity is also useful to prevent access from people who do not have responsibility.

2. Investor account security protection that prevents phishing. Phishing is a type of fraud that uses a fake website that is made to look like the original website to steal passwords and usernames. Currently, a layered security system has been implemented on exchanges in Indonesia, namely One Time Password (OTP), email verification, and using Google Authenticator. If the user uses all of this security, the security of the account can be guaranteed to be maintained.
3. Users must be over 18 years of age and have a legal identity. This means that if investors carry out risky asset transactions such as cryptocurrencies, investors must be legally competent to take legal action based on applicable laws and regulations.
4. The supervision of cryptocurrency exchange companies by BAPPEBTI as an institution under the supervision of the Ministry of Trade of the Republic of Indonesia. The legal basis for establishing BAPPEBTI is based on Law no. 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading. Article 1 paragraph (3) states that BAPPEBTI is a government agency tasked with developing, regulating, fostering, and supervising futures trading. Article 5 intends to realize futures trading activities that are transparent, effective, orderly, and efficient in order to protect the interests of all parties in futures trading. Cryptocurrency exchange companies established in Indonesia must be registered with BAPPEBTI which must meet certain requirements.

This provision is stated in BAPPEBTI Regulation Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market of Cryptocurrency Assets on the futures exchange (Nurjannah & Artha, 2019) including:

1. Cryptocurrency asset trading companies must obtain permission from the Head of BAPPEBTI (article 7 paragraph (2)).
2. In addition to having to get permission from the head of BAPPEBTI, Article 8 paragraph (1) states that cryptocurrency asset companies must meet several other requirements including: having a paid-up capital of at least one trillion rupiah, having an organizational structure such as an information technology division, audit division, and customer complaints division of cryptocurrency assets, and has a standard operating procedure (SOP) that regulates the implementation of trading transactions and settlement of customer disputes for cryptocurrency assets.

The government seeks to provide protection to the public from security disturbances and provide comfort from problems that arise from the misuse of Electronic Information and Electronic Transactions (ITE). Therefore, the government enacted a legal product, namely Law no. 19 of 2016 concerning ITE which is a revision of Law no. 11 of 2008 regarding ITE. In the latest ITE regulations it is written that the government plays a role in preventing the dissemination of electronic information and/or electronic documents with prohibited and unlawful content. (Sujamawardi, 2018). The position of electronic documents is equivalent to documents made on paper. Therefore, in an effort to protect the law, the government pays attention to the aspects of security and legal certainty in utilizing information, media and communication technology. Thus, it can develop optimally through approaches to legal, social, ethical, cultural and technological aspects (Hassanah, 2016). It needs to be implemented in order to maintain security in the implementation of electronic systems. The legal approach must be absolute since

without legal certainty, issues related to information technology will become a burden for its users (Rajab, 2018).

Based on the validity of the transaction, cryptocurrency assets refer to Article 1320 BW:

1. Deal

Agreement means the existence of a suitability and will between the parties when making an agreement. Article 1321 Burgerlijk Wetboek states that an agreement is born after an agreement between the binding parties is obtained. Disclosure of a will does not require it to be conveyed clearly but is sufficient through actions or other things that can explain the will to other parties. In cryptocurrency asset transactional activities, recipient confirmation is an important or vital thing so that a transaction can be stored on the Blockchain container smoothly. The transaction also requires a private key as a digital autograph so that it can be confirmed by the asset owner using the sender's public key. Through the autograph private key, the parties agree to compose a cryptocurrency asset transaction agreement that can be processed on the Blockchain.

2. Skill

The term competent implies a competence to carry out legal activities, which in this discussion is to draw up an agreement. In Article 330 jo. Article 1330 Burgerlijk Wetboek, it is stated that a person's maturity is when that person is already 21 years old. However, the current competency criteria refer to Article 47 jo. Article 50 of Law no. 1 of 1974 concerning Marriage based on the *Lex Posteriori Derogat Legi Priori* principle states that a person is declared capable of entering into an agreement if he is 18 years old or married and is not under the authority of a parent or guardian. As is well known, this principle means that a new regulation weakens the old one. In this case, the Marriage Law is a newer legal product than the BW. Thus, the enactment of regulations related to a person's ability to carry out legal activities must be based on the criteria in the law. On cryptocurrency trading platforms, such as Indodax and Tokocrypto, there is a rule called Know Your Customer or KYC which functions as a prerequisite for someone to become a member of the platform. The regulation is enforced to comply with Indonesian law so that it is free from a legal dispute, for example, a defect in a transaction related to a legal subject where the subject has not met the maturity criteria which has an impact on the cancellation of an agreement. Based on these considerations, cryptocurrency asset exchange companies provide guarantees that information related to the identity of customers is valid and reliable. A party who feels aggrieved by the other party, who is deemed to have violated the rules of the legal competence criteria as described above, can apply for the cancellation of the agreement.

3. Certain Thing

This is also known as the object of the agreement. This object must be clear and decided by the actors of the agreement which can be in the form of objects, services, or not doing something. The object is also commonly known as Achievement. In Articles 1332 and 1333 of Burgerlijk Wetboek, it basically explains that the object in an agreement must be of clear type and can be transacted. In the activity of buying and selling cryptocurrency assets, the object of the transaction is of course a virtual currency or cryptocurrency such as Bitcoin, Ethereum, Ripple, and the like which are used as investment assets in the futures trading market.

4. Halal Reason

An agreement is not allowed to ignore the prevailing norms, decency, politeness, and public order as stipulated in Article 1337 Burgerlijk Wetboek (Salainti, 2013). As ratified in the Ministry of Trade Regulation No. 99 of 2018 as well as the Regulation of the Regulatory Agency for the Commodity Futures Trading Cryptocurrency No. 5 of 2019, buying and selling activities using cryptocurrency

currency are allowed as the subject of buying and selling cryptocurrency assets in commodity futures exchanges. In this study, cryptocurrency trading activities are also studied through four principles, namely:

a. Principle of Freedom of Contract

This principle is also known as the principle of Freedom of Contract which is the foundation that guarantees freedom to individuals to carry out an agreement. This principle occupies a central or central position. The regulation of a contract is seen from a freedom in entering into an agreement, namely authority refers to the result of personal thought in creating a legal relationship.

Referring to Article 1338 Burgerlijk Wetboek, (Muhtarom, 2014) argues that this principle frees parties to make contracts in any form or format verbally, in writing, standardized, unilaterally, and so on, with content or content that is in line with what is desired by the parties making it. Thus, referring to the elaboration of this principle, trading in cryptocurrency assets is legal because it does not conflict with applicable regulations, does not violate the criteria for the validity of the agreement referring to Article 1320 Burgerlijk Wetboek, and does not conflict with moral norms or public order. (Krisharyanto & Setyowati, 2019).

b. Principles of Consensualism

This is the principle which states that the creation of a contract is at the time of an agreement. Thus, the agreement creates rights and obligations between the parties to the contract. This principle is regulated in Article 1320 number 1 Burgerlijk Wetboek which states that a contract is created after an agreement is obtained. (Megantari, 2019). However, it is important to understand that there is a contract that does not represent the true form of an agreement, namely the existence of a defect of will. These defects include:

1. Misguidance/Dwaling;
2. Fraud/Bedrog;
3. Coercion/Dwang.
4. Abuse of Circumstances/ Misbruik Van Omstandigheden

In cryptocurrency asset trading, the agreement of the parties is a condition and is vital and must be fulfilled so that trades can be processed and recorded in the Blockchain system.

c. Pacta Sunt Servanda Principle

This is the principle of binding power of an agreement contained in Article 1338 paragraph 1 Burgerlijk Wetboek. It basically states that all legally drafted contracts act as law for the parties who entered into them (Faozi, 2011). In terms of being a law for the parties who made it, the law provides recognition and the position that each contracting party has the same position as the legislators. Thus, all objects of the agreement must be fulfilled for those who have obligations. This obligation is not only a moral obligation but also applies as a legal obligation. It is only an agreement that is truly legally born, has a lawful cause, and does not have a will that has binding power. Thus, referring to the elaboration of the principle, the cryptocurrency asset agreement is the law for the parties who carry out their transactions. If one party does not fulfill its obligations, then that party can be sued because of the legally binding force of the contract they made together.

d. Good Faith Principle

This principle is stated in Article 1338 paragraph 1 Burgerlijk Wetboek which essentially states that all agreements must be made in good faith. (Hassanah, 2016). This article means that all agreements must be based on justice and propriety. Referring to Article 1338 paragraph 3 jo. Article 1339 Burgerlijk

Wetboek, a contract must be based on justice, convention, and law (Suryawan et al., 2014). Contract execution in the physical cryptocurrency asset market must be based on the honesty desired by each party. Thus Article 1338 paragraph 3 Burgerlijk Wetboek has a dynamic nature in which the relationship between the parties prior to the occurrence of the contract, the contractual, and the implementation of the contract must be based on good faith. This dynamic nature includes all pro-contracts as a function of good faith. Trading using cryptocurrency assets on commodity futures exchanges can be interpreted as trading using computerized digital means or electronic means. It is regulated in Article 17 paragraph 1 of the ITE Law which states that the implementation of electronic commerce can be carried out in public or private scope. Thus, according to the law, the trading of cryptocurrency assets is classified as legalized online trading and is based on statutory regulations. Thus, a contract has a relationship and legal consequences to the makers.

Mechanism of Tax Collection on Cryptocurrency Transactions for Investors Using Cryptocurrency Exchange in Indonesia

To change to conventional currency, it can be done through cryptocurrency trading, mining stages, or airdrops. This must have completed the requirements as a tax income that is charged according to Law no. 36 of 2008 as an amendment to Law no. 7 of 1983 concerning Income Tax (Maulani, 2021). The amount of income can be calculated according to the exchange rate or transaction value at the time the cryptocurrency is traded. The exchange stage is also a potential new income tax for the Indonesian government because exchangers can earn profits through differences in buying and selling rates, withdrawal fees, deposit fees, and transfer fees. (Disemadi & Delvin, 2021). The application of income tax regulations to exchangers can be identified with the application of brokers to the stock exchange. Trading using cryptocurrency, commonly known as commerce, can be a potential source of income for Indonesia. Each profit earned by the seller is subject to income tax. The profit referred to can be calculated from the trade value or exchange rate at that time minus the costs incurred. Through the investment stages, cryptocurrency activists can create capital gains and losses obtained from the difference in currency values at the time of purchase and sale. Due to the speculative nature of cryptocurrencies, gains from the added value of the currency being transacted are very common, in fact they can exceed a two-fold increase. This is certainly a source of high income for Indonesia.

The potential for increasing the VAT of the cryptocurrency was subsequently discovered in a company whose operational activity is cryptocurrency trading. In that case, VAT can be implemented. However, the possibility of that is very small. A fairly high VAT can be found in the exchange business stage. Services provided by exchangers, such as transfers or withdrawals of deposits, cannot be classified as financial services in which they must be confirmed as Taxable Entrepreneurs if they exceed certain achievement limits. Exchangers may be charged VAT for the sale of cryptocurrency. Exchangers can also be charged additional VAT if there is a purchase transaction from another exchanger who is also confirmed as a Taxable Entrepreneur. The last business stage that could be a possibility for increasing VAT for Indonesia is commerce. Sellers who have exceeded certain income limits must be confirmed as a Taxable Entrepreneur. As a result, the trade in goods and services carried out is the delivery of taxable goods or services. VAT is directly charged to the seller because the buyer is not confirmed as a Taxable Entrepreneur. Policy inputs to resolve obstacles in making tax collection on cryptocurrency trading a source of increasing the new economy in Indonesia are summarized in three things, namely:

First, it is important to improve the Self-Assessment System in imposing Income Tax on cryptocurrency trading in Indonesia. The unavailability of cryptocurrency taxation regulations in the applicable law is not as complete as compared to Income Tax regulations. This is because various aspects are not equipped to implement VAT in the business stages related to cryptocurrency. At the cryptocurrency mining business stage, the currency meets the criteria as a taxable item but it cannot be implemented. This is because cryptocurrencies are encrypted which makes it difficult to get knowledge of who the parties involved in buying and selling activities are (Sinaga, 2014). The stages of the investment business and Indonesian taxation make it automatically under the regulation of tax collection from the use

of cryptocurrency by the domestic community, namely the Income Tax Law. At the end of the tax period, taxpayers will fill out a Annual Tax Return which is useful for proof of tax reporting for a period of one year. Because capital gains from cryptocurrency which are included in increasing economic potential are intended as stated in Article 4 Paragraph (1) of the Income Tax Law, it is appropriate for taxpayers who use cryptocurrency to make reports as described. Investors cannot be burdened with VAT because investment activities using cryptocurrency are definitely outside the business activity environment so that investors cannot be classified as Taxable Entrepreneurs. However, it may be included in additional income in the Annual Tax Return. Thus, referring to the potential taxation of cryptocurrency in this country, it is unfortunate that there are still no regulations related to income tax taxation regulations on cryptocurrency trading activities in Indonesia.

Second is the importance of implementing the prevention of income tax payment on cryptocurrency trading in Indonesia. This can be implemented through supervision efforts as implemented by the Director General of Taxes as a preventive measure for disobedience to tax regulations by taxpayers as well as increasing compliance in tax payments in accordance with the specified deadline. Oscar Darmawan as CEO of Indodax, rejects the view that cryptocurrency investment is not taxed. Oscar also explained that all income derived from investment profits in cryptocurrency has an obligation to pay taxes. However, the tax as referred to is the concern of every investment actor. So, it is appropriate to require the implementation of a preventive law which can be done by socializing and educating the general public so that they understand more about taxation in cryptocurrency transaction activities.

Third, it is important to have a repressive law implementation related to the fulfillment of income tax obligations in cryptocurrency trading activities in Indonesia. The enforcement includes administrative penalties as well as criminal sanctions. The application of administrative sanctions to violators is in the form of fines when the violator is late in reporting the Annual Tax Return. It can also be added with increased sanctions if the violator knowingly and intentionally fills out the Annual Tax Return dishonestly and correctly related to the income of cryptocurrency as he/she gets it. The criminal sanction that can be imposed on the violator is imprisonment. The Director General of Taxes can initiate an in-depth examination of taxpayers as investors in cryptocurrency whose overall profit income is equal to or more than 50 million rupiah. This is based on Article 17 of the Income Tax Law which states that an income that is considered as personal profit is subject to a five percent tax, starting from an income of 50 million rupiah. In cryptocurrency trading, it is very often the case that the taxpayer earns many times the profit. Meanwhile, as stated above, the potential for increasing VAT through cryptocurrency is not as great as when compared to Income Tax. The potential for high income can occur at the exchange and commerce business stages. Thus, in the business of VAT revenue on cryptocurrency trading, awareness of the business subject is important to focus on. If the business activity is in accordance with the standard of the status of a Taxable Entrepreneur, the entrepreneur is obliged to confirm it so that the seller will also have the status of a Taxable Entrepreneur for certain transactions that can be taxed.

When people invest in cryptocurrencies and earn profits, it can be identified with increasing economic power. It is appropriate for cryptocurrency investors to pay income taxes. The government has taken cryptocurrency trading taxes in the form of value added tax and income tax (Sukmariningsih et al., 2022). The government has also implemented the tax referred to in cryptocurrency assets which will take effect on May 1, 2022. The cryptocurrency tax as regulated in the Minister of Finance Regulation no. 68 of 2022 related to Value Mining Tax and Income Tax on Trading Transactions of Cryptocurrency Currency Assets which are a derivation of the Law on the harmonization of tax regulations. Cryptocurrency assets are not legal tender in Indonesia but these assets can be traded only through BAPPETI as a regulator of commodity futures trading supervision in Indonesia under the auspices of the Ministry of Trade. Cryptocurrency assets as traded have been regulated by BAPPETI No. 7 of 2020 regarding the establishment of a list of cryptocurrency assets that can be traded in the physical cryptocurrency asset market.

Referring to Article 19 PMK No. 68 of 2022, cryptocurrency tax actors or subjects who are burdened with cryptocurrency income tax are: sellers of cryptocurrency assets, organizers of trading through electronic systems, and miners of cryptocurrency assets. Meanwhile, cryptocurrency VAT actors or those charged with VAT for their activities in cryptocurrency are: buyers and sellers of cryptocurrency. Referring to Article 2 PMK No. 68 of 2022, crypto asset tax objects with Cryptocurrency VAT charges include:

1. Submission of Intangible Taxable Goods in the form of cryptocurrency assets by the seller of cryptocurrency assets
2. Delivery of Taxable Services in the form of services for providing Electronic Facilities used for cryptocurrency asset trading transactions, by PMSE organizers
3. Submission of Taxable Services in the form of cryptocurrency asset transaction verification services and/or cryptocurrency asset mining group management services (mining pool) by cryptocurrency asset miners

Based on PMK 68 of 2022, the elaboration and tax value of cryptocurrency assets or VAT or Income Tax as determined are:

1. 0.11%: VAT rate on sale of cryptocurrency assets
The VAT rate on the sale of cryptocurrency assets is 0.11% of the sales amount in the event that the trade organizer is a Physical Asset Trader (PFAK).
2. 0.22%: VAT rate on sale of cryptocurrency assets
The VAT rate on the sale of cryptocurrency assets is 0.22% of the sales amount in the event that the trade organizer is not by PFAK.
3. 1.1%: VAT rate for mining services
The VAT rate for mining services is 1.1% of the cryptocurrency asset exchange rate and mining services have verified asset transactions.
4. 0.1%: Article 22 Final Income Tax Rates on income from the sale of cryptocurrency assets
Article 22 Income Tax rate on the sale of cryptocurrency assets of 0.1% of the value of cryptocurrency assets (if PFAK) is charged to cryptocurrency asset merchants.
5. 0.2%: Final Article 22 Income Tax Rate on the sale of cryptocurrency assets
Article 22 Income Tax rate for mining cryptocurrency assets is 0.2% of the amount of cryptocurrency assets (if not PFAK).
6. 0.1%: Final Article 22 Income Tax Rate on cryptocurrency asset mining income
Article 22 Final Income Tax rate on cryptocurrency asset mining income is 0.1% of the income earned by cryptocurrency asset miners, excluding VAT.
7. Cryptocurrency VAT Rates with Certain Amounts
Referring to Article 16 paragraph (1) PMK 68/2022, VAT for the delivery of cryptocurrency asset transaction verification services and/or mining pool management services by cryptocurrency asset miners as Taxable Entrepreneurs, VAT taken and given with a value certain.
8. A certain value of VAT for the provision of cryptocurrency asset transaction verification services and/or cryptocurrency asset miner group management services by cryptocurrency asset miners is 10% of the VAT rate multiplied by the amount of money in the form of cryptocurrency assets obtained by cryptocurrency asset miners, including cryptocurrency assets received of the cryptocurrency asset system (block reward).

Currency Regulation on Cryptocurrency Tax in Article 17 paragraph (3) of PMK 68/2022, related to the compensation obtained by miners of cryptocurrency assets for the provision of cryptocurrency assets in relation to transaction verification services and/or management services of cryptocurrency asset miners in the form of:

1. Fiat currency other than rupiah, the fiat currency referred to is converted into rupiah currency by referring to the exchange rate as determined by the Ministry of Finance (Tax Rate or Exchange Rate of the Ministry of Finance).
2. The cryptocurrency assets as referred to are converted into rupiah currency by referring to: the amount as determined by the futures exchange that provides the means of cryptocurrency asset transactions, or referring to the amount in the system owned by the cryptocurrency asset miner, as determined consistently.

The imposition of cryptocurrency taxes or cryptocurrency asset transactions is through the appointment of third parties as VAT takers for cryptocurrency asset transactions. The taker is the Organizer of Trading Through Electronic Systems (PPMSE), both domestic and foreign. PPMSE is a taxpayer who has been confirmed as a Taxable Entrepreneur (Maulani, 2021). In addition, PPMSE is also required to take Income Tax with reference to Article 22. As described above, VAT for providing cryptocurrency asset transaction verification services and cryptocurrency asset mining group management services is collected by cryptocurrency miners who have been confirmed as Taxable Entrepreneurs. The implementation is carried out in cryptocurrency exchanges through the imposition of VAT and Income Tax and is combined with trading fees. Thus, the overall cut is 0.31%. The details are trading fee of 0.1% added to VAT and Income Tax of 0.21%.

Conclusion

Many Indonesians are getting to know cryptocurrency and are starting to consider it a business and investment trend, by exchanging rupiah into cryptocurrency on a cryptocurrency exchange registered with BAPPEBTI. If it is associated with Law No. 19 of 2016 which is a revision of Law No. 11 of 2008 regarding electronic information and transactions, investment activities using cryptocurrencies often raise legal problems with the existence of information, communication and electronic transactions. This is mainly related to evidence and other matters related to legal actions carried out with electronic systems, which in reality cyber activities are not simple. As a regulator, the state plays a role in consumer supervision and protection, Bank Indonesia has made efforts through BAPPEBTI so that every cryptocurrency exchange is registered and can trade cryptocurrency assets. The government has imposed a tax on Cryptocurrency assets which took effect on May 1, 2022. Cryptocurrency tax and has been regulated in the Minister of Finance Regulation No. 68 of 2022 concerning Value Added Tax (VAT) and Income Tax on Cryptocurrency Asset Trading Transactions which are derivative rules of the Law on the harmonization of tax regulations. The mechanism for imposing cryptocurrency taxes or on trading cryptocurrency assets is by appointing a third party as a VAT collector for trading cryptocurrency assets. Implementation on cryptocurrency exchanges is carried out by imposing VAT and Income Tax and is combined with trading fees. Thus, the total deduction is 0.31%. The details include trading fee of 0.1% added to VAT & Income Tax of 0.21%.

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