

CHAPTER ONE

INTRODUCTION

A. Background

In 2018 Indonesia targets to obtain tax revenues of 1,424 trillion Rupiah, but unfortunately, Indonesia only achieves 1.136,66 trillion Rupiah or 79,82% from the goal that has been stated in the State Budget.¹ It means that tax revenue in Indonesia is categorized as a shortfall. Because the technological advancement, the object of tax is more variable, there are so many things that can be classified as a new object of tax, one of them is bitcoin.

Bitcoin is an online correspondence convention that encourages the utilization of virtual money, including electronic installments.² Bitcoin exists entirely as lines of computer code.³ Unlike the Rupiah, bitcoin is not backed by the government.⁴ The value of bitcoin has vacillated drastically through the years, numerous clients buy bitcoins for speculative purposes.⁵ On the first release in 2009, the value of a single bitcoin was only 1.300 Rupiah, but in 2013 its value has dramatically increased from 1.300 Rupiah to 15.8 million Rupiah, in 2018 its value reached 385 million Rupiah, while in May 2019 its

¹ Hendra Kusuma, Detik Finance, 2019, "Penerimaan Pajak 2018 Masih Kurang" taken from <https://finance.detik.com/berita-ekonomi-bisnis/d-4368099/penerimaan-pajak-2018-masih-kurang> accessed on January 3rd, 2019 at 08.21 AM.

² Rainer Böhme et al, 2015, "Bitcoin: Economics, Technology, and Governance." *The Journal of Economic Perspectives*, vol. 29 no. 2, p. 213

³ Nikolei M. Kaplanov, 2012, "Nerdy Money: Bitcoin, the Private Digital Currency, and the Case Against Its Regulation", *Loyola Consumer Law Review*, V.25, p. 116.

⁴ Misha Tsukerman, "The Block is Hot: A Survey of the State of Bitcoin Regulation and Suggestions for the Future" *Berkeley Technology Law Journal*, Vol. 30, No. 4, Annual Review, 2015, p. 1127

⁵ Craig K. Elwell et al, 2014, "Bitcoin: Questions, Answers, and Analysis of Legal Issues", *Congressional Research Service*, p. 1

value is 80 million Rupiah, and now the value of one bitcoin is around 171 million Rupiah⁶, since the value of bitcoin is growing drastically, it makes the users of bitcoin also increase dramatically. According to CEO of bitcoin Indonesia, Oscar Darmawan, the active user of bitcoin in Indonesia reaches 1,1 million users⁷,

On the other hand, Central Bank of the Republic of Indonesia (BI) has banned the use of bitcoin in Indonesia accordingly with the Law No 7 of 2011 on Currency that stated that currency is money issued by the Unitary State of the Republic of Indonesia and every transaction that has the purpose of payment, or other obligations that must be fulfilled with money, or other financial transactions carried out in the territory of the Republic of Indonesia must use Rupiah.⁸ It is meant that the only legal currency that can be used in Indonesia is Rupiah, and every use of bitcoin in Indonesia is illegal.

The Banning of bitcoin in Indonesia because BI assumes that bitcoin is a virtual currency so is not allowed to be used in Indonesia. If we compared between exchange-traded of bitcoin and total transaction volume in some bitcoin network, we can conclude that most users of bitcoin treat their bitcoin as an investment rather than a tool of payment.⁹ As a digital asset, of course, BI Indonesia cannot ban the existence of bitcoin, so Indonesian people are still allowed to have bitcoin.

⁶ Exchange rate of bitcoin in May 5, 2019

⁷ Sylke Febrina Laucereno, detikFinance, 2018, "Transaksi Bitcoin di Indonesia Tembus 1T/Hari" taken from <https://finance.detik.com/moneter/d-3895202/transaksi-bitcoin-di-indonesia-tembus-rp-1-thari> accessed on March 6th, 2019 at 08.10 PM

⁸Law No 7 of 2011 on Currency

⁹ Rainer Böhme, et al, *Loc.cit.*

Due to the fact that bitcoin in Indonesia is not banned by the BI, the transaction of bitcoin in Indonesia can reach 1 Trillion Rupiah every day¹⁰. It is very potential to be an object of tax to increase the tax revenue in Indonesia.

Although it seems to be full of potential, it is not easy to impose tax on the ownership of bitcoin in Indonesia. Indonesia does not have specific regulation regarding tax of bitcoin, Indonesia only has the Law No 36 of 2008 on Income Tax and the Law No 42 of 2009 on value-added tax on goods and services and sales tax on luxury goods. According to the income tax regulation, the object of tax is income or every additional economic capability received or obtained by taxpayers, both from Indonesia and from outside Indonesia, which can be used for consumption or to increase the taxpayer's wealth in question, in whatever name and form.¹¹ Moreover, according to Value-added Tax regulation, the object of tax are:

1. Delivery of Taxable Goods in the Customs Area carried out by the Entrepreneur;
2. Import of Taxable Goods;
3. Delivery of Taxable Services in the Customs Area carried out by Entrepreneurs;
4. Utilization of Intangible Taxable Goods from outside the Customs Area within the Customs Area;

¹⁰ Sylke Febrina Laucereno, *Loc.cit.*

¹¹ Article 4 Law No 36 of 2008 on Tax Income

5. Utilization of Taxable Services from outside the Customs Area within the Customs Area;
6. Export of Tangible Taxable Goods by Taxable Entrepreneurs;
7. Export of Intangible Taxable Goods by Taxable Entrepreneurs; and
8. Export of Taxable Services by Taxable Entrepreneurs¹²

Although bitcoin has already met the requirements to be the object of tax, those regulation is not sufficient to impose a tax on the ownership of bitcoin because of some reasons, namely: First, because bitcoin is only a virtual asset or computer program.¹³ Bitcoin can be held on online wallets, not on particular jurisdiction and not an object of taxation at all.¹⁴ Second, the users of bitcoin are pseudonymous, and they can have bitcoin wallets as much as they want, conceivably without giving any recognizing data.¹⁵ Those things make it easy enough for the user of bitcoin to avoid tax. Even more, Indonesia uses the self-assessment system in tax.

To catch up on the development of technology especially bitcoin, the Law No 36 of 2008 on Income Tax and the Law No 42 of 2009 on value-added tax on goods and services and sales tax on luxury goods should change, since it is not enough to face challenges of the digitalization era. The phenomenon of bitcoin should be utilized as well as possible, and the potential of tax avoidance in bitcoin should be reduced by providing better regulation on

¹² Article 4(1) the Law No 42 of 2009 on value-added tax on goods and services and sales tax on luxury goods

¹³ Nikolei M. Kaplanov, *Loc.cit.*

¹⁴ Omri Y. Marian, 2013, "Are Cryptocurrencies Super Tax Havens?", *Michigan Law Review First Impressions*, vol. 112, pp. 38-39.

¹⁵ *Ibid*

taxation of bitcoin. Therefore the author will discuss the tax imposition on the ownership of bitcoin in Indonesia. In this study author focus more on the urgency to regulate bitcoin taxation, the possibility of bitcoin taxation and the author will also explain how bitcoin taxation should be regulated.

B. Statement of Problems

1. How is the urgency and possibility of bitcoin taxation in Indonesia?
2. How should the law regulate on the tax imposition on the ownership of bitcoin in Indonesia?

C. Objectives of Research

1. To understand the importance of bitcoin taxation in Indonesia.
2. To analyze what should be regulated regarding bitcoin taxation.
3. To propose suggestion on the regulation of bitcoin in Indonesia

D. Benefit of research

There are some benefits of this research, namely:

1. Theoretical Aspect

The study gives the advantage to find out about the importance and the possibility of bitcoin taxation and how bitcoin taxation should be regulated in Indonesia.

2. Practical Aspect

This research will provide benefits for the government to provide better regulation on the bitcoin taxation in Indonesia.