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## TAXATION STUDIES | RESEARCH ARTICLE

# Analysis of VAT Policy Toward Overseas Digital Service Providers Through Consumer Regulatory Impact Assessment in Indonesia

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**Abstract:** This study aims to examine the extent to which PMK No. 60/PMK.03/2022 is said to meet international standards through Regulatory Impact Assessment in the guidelines of the Organization for Economic Co-operation and Development. This research applies qualitative research with a case study approach. The data in this study are qualitative data sourced from interviews (primary data), observation, and documentation (secondary data). Data analysis was conducted in several stages, namely data collection, data refinement, data processing, data analysis, and conclusion drawing, as well as ten RIA question steps as a measuring tool. The results showed that both PMK 48/2020 and PMK 60/2022 have answered the ten Steps of RIA questions well, but the distribution of benefits to the community still needs to be elaborated in order to increase transparency. Furthermore, easy access to the draft policy of PMK 60/2022 so that the government's intentions and objectives for enacting the policy are clear and understood by the public.

**Keywords:** PMK 48/PMK.03/2020, PMK 60/PMK.03/2022, VAT PMSE, Regulatory Impact Assessment.

## 1. INTRODUCTION

Statistical data according to the We Are Social report in Annur, (2022), there were 204.7 million internet users in Indonesia as of January 2022. This number increased by around 1.03% compared to January 2021 with the number of internet users recorded at 202.6 million.

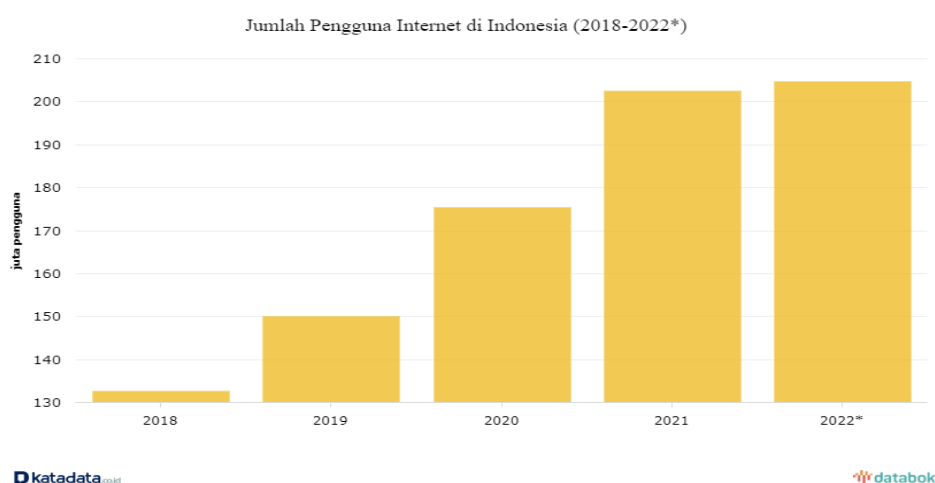


Figure 1. Number of Internet Users in Indonesia (2018-2022)



This shows that the growth of the digital economy during the Covid-19 pandemic in Indonesia has a significant impact on the economy (Sayekti, 2018). This is due to the high public consumption of digital platforms in various aspects such as trade (e-commerce or electronic-based trade), education (online courses), social networking, transportation (autonomous vehicles), and health (electronic medical records) (OECD, 2015; Wijaya & Utamawati, 2018). One example of digital platforms with high consumption in Indonesia and even the world is Netflix and Spotify. Based on data from Nakono.com, a research company that focuses on research in the digital economy, Netflix Indonesia streaming subscribers show a rapid growth trend from year to year. The data refers to streaming subscribers and individual billable subscriber accounts, not Netflix's total subscribers, which are larger in number (Jayani, 2019). Spotify's digital platform also shows the same thing. Spotify still dominates the global music streaming app market. Recorded, the number of paid subscribers to the Spotify music streaming application has reached 180 million subscribers until 2021. The number of Spotify paid subscribers has continued to increase in the last five years. Moreover, since the Covid-19 pandemic, the number of paid subscribers in this Swedish application has grown massively (Annur, 2022). With the increase in consumption of digital platforms, Indonesia has the potential to increase tax revenue. The DGT is still waiting for the results of the global consensus on digital taxes related to income tax, which is currently still being discussed at the G20/Organization for Economics Co-operation and Development (OECD) meeting but has not yet met the final results. Although it has not been able to collect income tax, at least the Ministry of Finance has started to appoint 105 VAT collectors as of March 2022. These include local companies, such as Tokopedia, Bukalapak, Blibli, and Shopee, as well as the majority of foreign-based VAT collectors such as Microsoft, Alibaba Cloud, IBM, Amazon, Google, Netflix, Spotify, Skype, LinkedIn, and Twitter (klikpajak.id).

To address this, the government has issued new taxation rules included in Regulation in Lieu of Law Number 1 of 2020 which was later passed into Law Number 2 of 2020 concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability into Law. Through Regulation in Lieu of Law Number 1 of 2020, the government provides special tax treatment for Trading Through Electronic Systems (PMSE) activities, especially on marketplaces or digital platform providers, both domestically and abroad. As of July 1, 2020, the utilization of intangible goods or services from outside the customs area through an electronic system is subject to Value Added Tax (VAT). The terms and conditions are that any provider of goods and services electronically, both at home and abroad, is obliged to collect and remit VAT to the Directorate General of Taxes (DGT).

The government hopes to tax foreign companies that do not have a physical presence in Indonesia but have a significant economic presence. To follow up on Law Number 2 of 2020, the government has issued PMK No. 48/PMK.03/2020 which was later amended to Minister of Finance Regulation Number 60/PMK.03/2022 concerning Procedures for Appointment of Collector, Collection, Deposit, and Reporting of Value Added Tax on the Utilization of Intangible Taxable Goods and/or Services from Outside the Customs Area in the Customs Area through Trading through Electronic Systems as one of 14 derivative regulations to implement Law Number 7 of 2021 concerning Harmonization of Tax Regulations (HPP Law) as a substitute for Law Number 2 of 2020 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability. In the HPP Law, the tax regulations that are regulated start from the implementation of a corporate income tax rate of 22%, an increase in VAT rates from 10% to 11% and 12%, the application of NIK to NPWP for individual taxpayers, tax amnesty volume 2, carbon tax, to customs.

Liyana (2021) in her research welcomed this. According to him, the 11% VAT rate increase will affect the Indonesian economy. This is also supported by several research results (Ebrill et al., 2001; Wijaya, 2013; Liyana, 2021). The Ministry of Finance (2021 in Liyana, 2021) added that the increase

in the VAT rate is expected to have a significant impact on tax revenue. In addition, the growth of the middle income group that continues to increase from year to year will also increase the value of consumption and increase tax revenue from VAT. Further explained by Liyana (2021) where the results of his research show that the Indonesian Government's motive for increasing the VAT rate is mainly related to Indonesia's economic resilience. Moreover, by looking at the potential of foreign PMSE transactions in Indonesia, which is estimated to reach IDR 100 trillion with a potential VAT of IDR 10 trillion. Moreover, this is the government's effort to create fair competition and a level playing field for all business actors, especially between domestic and foreign businesses, as well as between conventional businesses and digital businesses. In addition to the absence of restrictions from the OECD, VAT is essentially a tax on domestic consumption. This means that those who are taxed are actually consumers in Indonesia, not foreign PMSEs (Salsabilah, 2020). This statement has actually caused cons. In fact, several complaints related to the implementation of PMK Number 48/PMK.03/2020 have not been resolved by the amendment to PMK Number 60/PMK.03/2022 which only increases the VAT rate to 11%. These complaints include that foreign PMSE business actors cannot maximize their profits. Meanwhile, domestic PMSE business actors are not subject to VAT. Thus, there is a difference in treatment between foreign and domestic PMSE (Widianto & Puspita, 2020). In addition, PMK Number 60/PMK.03/2022 still does not regulate dispute resolution procedures in cases of non-compliance, which is necessary to anticipate tax non-compliance issues. The debate regarding the issue of procedures for determining the status of BUT is also questioned by Manalu & Wijaya (2022). According to them, the rules issued by the Government to expand the requirements for determining the BUT status of digital service providers domiciled abroad can be confirmed by the government through the limitation of economic significance and without the need for physical presence in Indonesia. However, the regulation only regulates the indicators of economic significance, while the value or amount of the limitation has not been further regulated.

This phenomenon raises the question of whether the policy steps taken by the Government in issuing PMK No. 60/PMK.03/2022 are appropriate. Many aspects are regulated by regulations and policies issued by the government. However, sometimes a regulation also has many limitations, such as inefficiency that causes poor economic performance, burdens business activities, is discriminatory, or inhibits innovation. Thus, a regulation must be reviewed further after it is enacted to see the extent to which the regulation is on target and efficient (Satria, 2015). PMK No. 60/PMK.03/2022 is expected to be a legal basis for the implementation of VAT imposition on economic digitization issues (Widianto & Puspita, 2020). The Organization for Economic Co-operation and Development (OECD) introduced a policy tool to follow up on a regulation after it was enacted. This tool is the Regulatory Impact Assessment (RIA). RIA is a tool to achieve international standards to create a quality policy (Satria, 2015). RIA is intended to support OECD government capacity by ensuring that a regulation is effective and efficient. RIA is used to define problems and ensure that government actions are justified and appropriate (Satria, 2015).

There are ten questions in RIA set by the OECD in formulating a regulation, so as to create a better regulation (Widianto & Puspita, 2020). Through these ten questions, RIA can test the motives behind the regulatory choices made. In this case, testing whether a regulation is made for the public interest or more dominantly according to the interests of policy makers or certain groups only (Satria, 2015). The ten-step question is an OECD reference checklist for government decision making derived from the OECD council recommendations on improving the quality of government regulations. The checklist includes a number of relevant questions that policymakers should ask themselves, who will have the greatest impact from the enactment of the policy. In other words, the checklist can help policymakers to consider the implications of the proposed regulation and to determine that the proposed regulatory response (if it goes ahead) is likely to be efficient and effective. This research adopts the ten RIA questions in the OECD guidelines to review and see to what extent PMK No. 60/PMK.03/2022 is said to meet international standards. Given that the Ministry of Finance has not implemented Regulatory Impact Assessment in making policies (T. Kurniawan et al., 2018). Thus this research is entitled "Analysis of VAT Policy Towards Foreign Digital Service Providers through Regulatory Impact assessment of consumers in Indonesia".

The prospect of PMSE tax revenue for the State has great potential (Zielias, 2021). This is due to the government's appeal to conduct physical distancing as an effort to overcome the COVID-19 case. This appeal influences people to avoid or reduce economic activities that involve physical contact with other people, so that many people choose to carry out economic activities digitally (Wijaya & Nirvana, 2021). Apart from the public, business actors, both domestic and foreign, have flocked to start shifting their businesses to digital. The government, seeing this potential, passed PMK No. 60/PMK.03/2022 as a derivative regulation of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (HPP Law). In this regulation, the increase in the PMSE VAT rate became a problem in previous research. PMK No. 60/PMK.03/2022 as a replacement for PMK No. 48/PMK.03/2020, has not provided a solution to the problems raised by several previous studies (Manalu & Wijaya, 2022; Widiyanto & Puspita, 2020) which discuss several limitations of the regulation ranging from the absence of equality of tax treatment between PMSE business actors (both domestic and foreign) to the absence of a clear status regarding the Permanent Establishment for foreign PMSE business actors. The Organization for Economic Co-Operation and Development (OECD) introduced a tool to assist governments in assessing the impact of new or existing regulations called Regulatory Impact Analysis (RIA) (Widiyanto & Puspita, 2020). Through the ten steps of RIA questions in the OECD guidelines, this research is intended to look at the motives behind the enactment of PMK No. 60/PMK.03/2022, especially the change in PMSE VAT rates.

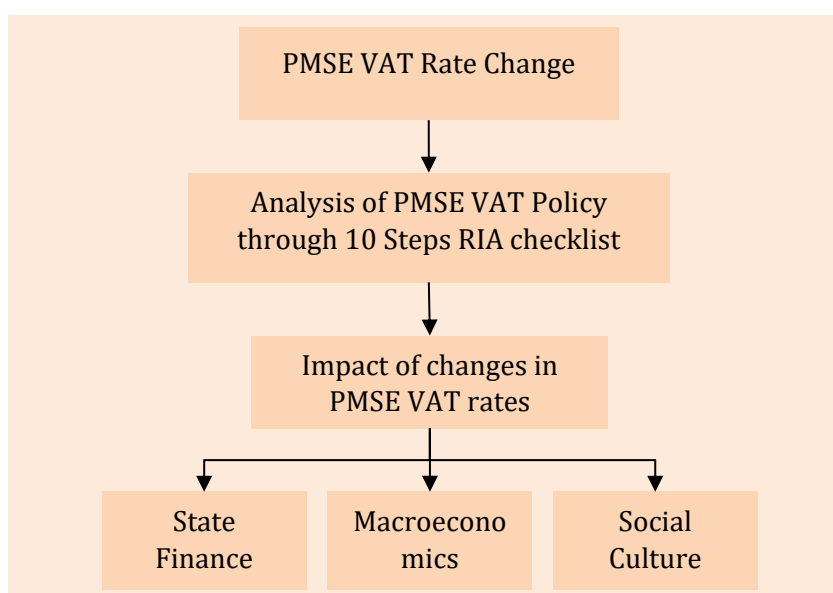


Figure 2. Framework of Thought

## 2. Research Method

### *Research Approach and Type*

This research uses qualitative methods. Qualitative research is data collection in a natural setting with the intention of interpreting the phenomena that occur where the researcher is the key instrument and the research results emphasize meaning rather than generalization. Qualitative research emphasizes an understanding of problems in social life based on the conditions of reality or natural settings that are holistic, complex, and detailed (Anggito & Setiawan, 2018). The research approach used is case study research. Case study research is a series of scientific activities carried out intensively, in detail and in depth about a program, event, and activity, either at the level of an individual, group of people, institution, or organization to gain in-depth knowledge about the event (Rahardjo, 2017). This approach is intended to further examine the problems or cases that are the focus of this research. The case study research approach will answer the problems posed descriptively, explanatory, and

exploratory. This is relevant to the research focus which will assess the extent to which a policy related to VAT on PMSE from foreign providers can be said to meet international standards according to the Regulatory Impact Assessment (through ten questions posed from the OECD guidelines).

### *Managing your role as a researcher*

In this study, the researcher plays a very important role in the data collection process or in other words, the research instrument. Meanwhile, other instruments are supporting researchers. This is because this research requires an instrument that can be used as a data collector. The presence and full participation of the researcher can make the research subject more responsive. Thus, research information can be obtained accurately through the attitudes and ways of the sources in providing information.

### *Data Source*

The data sources in this research consist of primary and secondary data. Primary data comes directly from research informants, namely Ms. Fiona Simorangkir as a representative of the Office of the Directorate of Taxation Regulation I, through online interviews. So that the informant is expected to provide information related to the research needed. Meanwhile, secondary data is sourced from literature collected and analyzed related to the research topic.

### *Data Collection Technique*

The data collection techniques used in this research are interviews, literature studies, and documentation. The interview method will be conducted online due to an appeal to prevent the spread of Covid-19. In this regard, the Directorate General of Taxes has provided a research platform as an effort to build a tax research environment. Meanwhile, the literature study and documentation methods are carried out directly through the collection of secondary data sourced from books, research journals, tax laws, and derivative regulations from the Tax Law related to the research topic.

### *Data Analysis Technique*

After the data in the form of transcripts of interviews and observations, as well as drawings, photographs, subject diaries and so on are considered complete and perfect, researchers conduct data analysis. Case study data analysis and qualitative research in general can only be done by the researcher himself, not by a supervisor, friend, or through the services of others. Because, as a key instrument, only the researcher himself knows in depth all the problems studied. Data analysis is the most important stage in every research and at the same time the most difficult. Because, from this stage important information will be obtained in the form of research findings. Failure to analyze data means failure of the research as a whole.

### *Checking the Validity of Findings/Conclusions*

In qualitative research, researchers must try to get valid data, therefore in collecting data, researchers need to conduct data validity so that the data obtained is not invalid (defective). The data validity used in this research is the triangulation method. Triangulation model means repeating or clarifying with various sources. If data triangulation is needed, it can be done by looking for other data as a comparison. The person involved can be asked for further information about the data obtained. If triangulation is in the aspect of method, it is necessary to review the methods used (Sutriani & Octaviani, 2019). Triangulation in principle is a data checking model to determine whether data really accurately describes the phenomenon in a study. Triangulation carried out in this study includes:

1. Source Triangulation. Source triangulation means comparing and rechecking the degree of trustworthiness of information obtained through different sources. For example, comparing observations with interviews, comparing what is said publicly with what is said privately, comparing interview results with existing documents.



2. Theory Triangulation. Theoretical triangulation is utilizing two or more theories to be pitted or combined. For this reason, a complete research description of data collection and data analysis is needed, so that it will be able to provide more comprehensive results.
3. Method Triangulation. Triangulation of methods is an attempt to check the validity of data, or check the validity of research findings. Method triangulation can be done by using more than one data collection technique to get the same data.

### 3. Research Result and Discussion

Efforts to overcome the Covid-19 pandemic continue. An extraordinary step in budget management by relaxing the deficit rules through Government Regulation in Lieu of Law (Perpu) Number 1 of 2020 which was later passed into Law Number 2 of 2020, for the time being at least the value of the budget shortfall can exceed the 3% of GDP limit (Ministry of Finance RI, 2021). In 2020, the realization of tax revenue (temporarily) reached IDR 1,282.8 trillion or equivalent to the realization of revenue in 2016 (Ministry of Finance, 2021). This means that the government still needs additional efforts to restore the level of revenue to at least the condition in 2019. The government issued Minister of Finance Regulation Number 48/PMK.03/2020 as a follow-up effort. With regard to the transaction value and capitalization of intangible goods, the development of the digital economy in Indonesia shows the fastest growth and the largest market size in Southeast Asian countries, with a projected economic capitalization value as illustrated below.

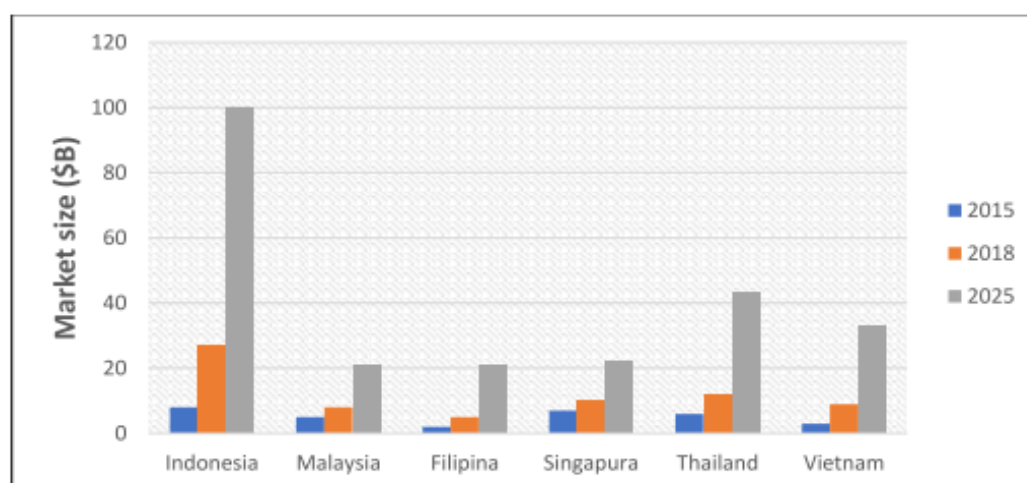


Figure 3. Projected Size of Indonesia's Digital Economy

Source: World Bank (2018) (Ministry of Finance, 2019)

Temasek (2018; Ministry of Finance of Indonesia, 2019) calls Indonesia a digital archipelago with the size of the economy using internet facilities in 2018 amounting to 2.9% of Gross Domestic Product (GDP), with a projected capitalization size of the digital economy of IDR 1,400 trillion in 2025. Tenriwaru et al. (2021) stated that the imposition of VAT on digital economic activities, especially during the pandemic, certainly has the potential to increase state revenue. According to Ms. Fiona Simorangkir as a representative of the Directorate of Taxation Regulation I, the implementation of the policy has gone well. "... if in terms of what Ms. Mifrah said earlier, whether the implementation has gone well, yes. If we want to know our revenue...PMSE VAT revenue in 2020 amounted to Rp310 billion...Rp731 billion. Then in 2021 it was IDR3.9 trillion and until September 2022, yes, it was IDR4 trillion." Looking at the realization of tax revenue (especially on Value Added Tax on Trade through Electronic Systems, VAT PMSE), it will make a major contribution to the government's goal of reducing the state budget deficit. In addition, the issuance of Minister of Finance Regulation Number

60/PMK.03/2022 as a follow-up to the Taxation Harmonization Law that took effect in April 2022. Where the regulation explains that VAT is no longer subject to a 10% rate, but becomes 11% and 12% no later than January 1, 2025. As stated by Ms. Fiona Simorangkir: "Now there is a change from PMK 48 to PMK 60. So since the law on harmonization of tax regulations (HPP law), yes the HPP law, we have changed the tariff from 10% to 11%, so PMK 48 which previously said that the tariff was 10% we changed it to 11% in 2022 starting April 1, yes, no later than January 1, 2025 to 12% we changed the tariff so that for example it should be Rp110,000, it will be Rp111,000 so yes, Ms. Mifrah."

Based on Law Number 2 of 2020 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Corona Virus Disease 2019 (Covid-19) Pandemic and/or in the context of Facing Threats that Endanger the National Economy and/or Financial System Stability into Law Number 2 of 2020, it has been determined that the budget deficit in 2023 will return to a maximum of 3% (Ministry of Finance of the Republic of Indonesia, 2021). In this regard, the government needs to make more efforts so that state finances return to a normal deficit while still paying attention to the ease of doing business and economic growth. The pros and cons of the implementation of PMK 48/2020 and PMK 60/2022 are still a phenomenon that underlies this research. Liyana (2021) states that the implementation of these policies is very beneficial for the country's economy. According to research, Netflix Indonesia's total streaming subscribers reached 95 thousand in 2017, grew 2.5 times to 237.3 thousand in 2018, and reached 482 thousand in 2019 (databoks.katadata.co.id). This is one example that shows the potential tax revenue derived from the utilization of digital content and services by consumers in Indonesia to foreign businesses. Manalu & Wijaya (2022) stated that the provision of BUT for foreign business actors whose content and services are consumed by Indonesians has not provided a clear explanation regarding the procedure for determining the status of Permanent Establishment in Indonesia. However, Ms. Fiona Simorangkir emphasized that: "It must be understood that VAT is a destination principle, yes the principle. Where goods and services are consumed there VAT is payable. In this case there is no BUT issue there. BUT is more about the issue of taxation on income, how we tax the income, right. Here, the pure is what is the object? The object is the utilization of Intangible Taxable Goods or Overseas Taxable Services in Domestic. This means that what Ms. Mifrah should pay should be subject to VAT because it is consumed domestically. So whether there is a BUT or not, there is no interference as long as the object meets the subject, then VAT and he meets the threshold as a PMSE VAT collector. Then the VAT payable that must be collected, paid and reported by the PMSE VAT collector. There is no BUT issue there for BUT it is more to income tax."

#### 1. Is the problem correctly defined?

State revenue continues to decline, but on the other hand, government spending continues to increase, resulting in a widening budget deficit, so that fiscal space is narrowing. Thus, policies are needed that can immediately expand taxation to encourage an increase in tax revenue in order to seek normalization of the budget deficit of less than 3% in Fiscal Year 2023. In addition, the current tendency of various countries to increase VAT rates to compensate for the downward trend in corporate income tax rates. Therefore, the application of multiple tariffs is needed to increase VAT revenue to compensate for the decline in corporate income tax revenue, provide lower rates for certain goods and services that are needed by many people and provide higher rates for certain types of goods and services to provide a sense of justice. This sense of fairness is needed so that low-income people can enjoy lower VAT rates and high-income people are subject to higher VAT rates. Changes in the PMSE VAT rate from 10% to 11% (April 1, 2022), and to 12% (January 1, 2025 at the latest). Furthermore, the 12% rate is planned as a general rate. The imposition of multiple tariffs is not only to reduce the regressive nature of VAT, but also to provide a sense of fairness to the community. As stated by Ms. Fiona Simorangkir, that: "Now there is a change from PMK 48 to PMK 60. since the law on harmonization of tax regulations (HPP law), yes the HPP law, we changed the tariff from 10% to 11%, then PMK 48 which previously said that the tariff was 10%, we changed it to 11% in 2022 starting April 1, yes, no later than January 1, 2025 to 12%, we changed the tariff so that for example it should be Rp110. If the basis for the formation of PMK 48 is perpu 1 of 2020 or the law

that we enacted into law number 2 of 2020 so yes.... And the source of the law has changed, namely the HPP law."

2. Is government action justified?

The government's action is justified to reduce the state budget deficit, especially when viewed from the potential PMSE VAT revenue. According to Neilmadrin Noor (director of Counseling, Services, and Public Relations - Ministry of Finance of the Republic of Indonesia, 2021: in Webinar - CIPS Digital Economy Series) that "the tax generated after the appointment of the Foreign PMSE VAT collector reached Rp1.8 trillion." Supported by data on potential PMSE revenues by CIPS (Center for Indonesian Policy Studies), where potential PMSE revenues range from IDR 880 billion to IDR 44.7 trillion. "The government is 'aware' of this issue, in order to make Indonesia still follow international attributes by issuing regulations in Indonesia that do not violate the international order. Therefore, PMK 48/PMK.03/2020 not only answers the challenges in the fiscal sector of the digital economy, but also challenges in the fiscal sector during the pandemic." Ms. Fiona Simorangkir also explained that "the basis for the formation of PMK 48 is perpu 1 of 2020 or the law that we enacted into law number 2 of 2020. Now the perpu was formed in the context of the policy of handling covid, yes, handling the covid pandemic, in the sense that we need funds so that we make policies that support state revenues concerning state revenues in the context of handling this covid." The tax treatment policy for PMSE activities can help support the state budget through additional state revenue focused on handling the Covid-19 pandemic (Febrianti et al., 2021). Zielias, (2021) revealed that this policy is the right step taken by the government because digital goods or services transactions cannot be separated from government supervision and tax law enforcement. The application of multitarriff VAT is a solution to reduce VAT regressivity and increase tax revenue.

3. Is regulation the best form of government action?

The implementation of PMK 60/2022 is the best action taken by the government. The main purpose of changing the rate and imposing a multitarriff VAT is to help the state finances. In addition, the implementation of PMK 48/2020 and PMK 60/2022, although newly enacted, has shown a positive response to state revenue. Ms. Fiona Simorangkir explained that: "... in terms of what Ms. Mifrah said earlier, the implementation has gone well. If we want to know our revenue...PMSE VAT revenue in 2020 amounted to Rp310 billion...Rp731 billion. Then in 2021 it was IDR3.9 trillion and until September 2022, yes, it was IDR4 trillion. So if we want to compare this, there is no actual change in regulations. But we have to admit that the development in technology is getting faster. Right? We also always appoint, try to appoint, extensify, increase the number of PMSE VAT collectors. so of course it is hoped that like the purpose of the initial formation of PMK 48, PMK 60, we want to optimize state revenue. The goal is that we can obtain optimal results by increasing state revenue from PMSE VAT." Ms. Fiona added that the target of PMK 48/2020 and PMK 60/2022 is the appointment of PMSE VAT collectors. So that with the appointment of PMSE VAT collectors, it is expected to expand the tax base and ultimately help tax revenue. "We don't make a target, Ms. Mifrah, so we have to admit that here we ask for help and the foreign business actors. They are not our domestic taxpayers, but we ask them for help. We don't have a target in the interms on revenue, but so far the revenue has had a positive impact on our state revenue. But we do, in our internal, we always try to do it every month, at least there is an appointment of PMSE VAT collectors. So maybe the target is more like that, the target is to expand the number of PMSE VAT collectors."

4. Is there a legal basis for regulation?

The legal basis for the formation of PMK No. 48/PMK.03/2020 is Article 6 paragraph (13) letter a of Regulation in Lieu of Law Number 1 of 2020 which was later enacted into Law Number 2 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability (Ministry of Finance, 2020). Meanwhile, the legal basis for the establishment of PMK No. 60/PMK.03/2022 is article 44E paragraph (2) letter f of Law Number



6 of 1983 concerning General Provisions and Tax Procedures as amended several times lastly by Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

5. What is the appropriate level (or levels) of government for this action?

The bureaucracies involved include the Ministry of Finance, in this case the Directorate General of Taxes, the Directorate General of Customs and Excise, the Ministry of Trade, the Ministry of Communication and Information, and Bank Indonesia. Ms. Fiona Simorangkir stated that: "Yes, we coordinate first, of course, Ms. Mifrah with. first by internal first, we have an internal unit that is about compliance, supervision, directorate of PKP, potential compliance and revenue, they are what ... looking for PMSE VAT collector data, what to appoint them we have to look for first, how do you think about foreign business actors who transact with our buyers in Indonesia, so yes. That's the main thing. Then we also coordinate with external units at the fiscal policy agency. so the unit in the Ministry of Finance but outside the DGT is the fiscal policy agency, for coordination. for external units, we also coordinate with the Ministry of Communication and Informatics, then with BKPM too. So they know that to enter the Indonesian platform they must have a license, so we also coordinate with them."

6. Do the benefits of regulation justify the costs?

Tax revenue is certainly more beneficial than the tax administration costs incurred by the tax, both in the short and long term (Widianto & Puspita, 2020). This can be seen from the PMSE VAT revenue from 2020 when this research was compiled, stated by Ms. Fiona Simorangkir: "The PMSE VAT revenue in 2020 was Rp310 billion...Rp731 billion. Then in 2021 it was Rp3.9 trillion and until September 2022 it was Rp4 trillion...."

The increasing PMSE VAT revenue indicates a dynamic movement so that state financial revenues can continue to be optimized. When compared to the constant moving tax administration costs, it will increase the efficiency ratio of the impact of the PMSE VAT rate increase.

7. Is the distribution of affects across society transparent?

Reports related to tax revenue have been attached to the APBN report which can be accessed through the website of the Ministry of Finance of the Republic of Indonesia ([kemenkeu.go.id](http://kemenkeu.go.id)). In addition, there are also strategic output achievements whose benefits can be felt by the people of Indonesia. These strategic outputs are part of the Central Government Expenditure (BPP).

8. Is the regulation clear, consistent, comprehensible and accessible to users?

Policy information on both PMK No. 60/PMK.03/2022 and other financial policies can be accessed through the Ministry of Finance's Legal Documentation and Information Network website ([jdih.kemenkeu.go.id](http://jdih.kemenkeu.go.id)). Other issues related to the policy can be accessed on online platforms that provide taxation articles (such as [mekari by klik pajak](http://mekari.klikpajak.com) and [onlinepajak.com](http://onlinepajak.com)).

9. Have all interested parties had the opportunity to present their views?

All interested parties have the same opportunity to express their opinions. They even have the opportunity to sue the Constitutional Court (Widianto & Puspita, 2020). Ms. Fiona Simorangkir further explained that:

"Of course, in making rules, we are not only PMK 60, PMK 48. We coordinate it up to the Ministry of Law and Human Rights at the final stage, so that the Ministry of Law and Human Rights functions, what is it? Serves to harmonize between related stakeholders. whether in accordance with the provisions of laws and regulations, whether it violates human rights and so on. so we have coordinated with related parties."

10. How will compliance be achieved?

Adequate tax administration and technology, supervision from tax authorities, continuous monitoring and evaluation, and cooperation with designated PMSE VAT collectors are required to assist supervision. Zielias (2021) explains that in PMK 48/PMK.03/2020, the DGT has the right to request a detailed VAT collection report from the appointed VAT collectors. The report is an effort in the interest of monitoring the compliance of PMSE VAT Collectors. It was further revealed by Ms. Fiona Simorangkir that: "We also have tools, Ms. Mifrah, in our PMK law, that we, the DGT, may request annual transaction details. so far, their reporting has been in batches. For example, January, February, March are reported in April. We don't know whether the details are correct,

whether the calculations are correct, so we ask for the details of all of your transactions. We want to know, that's what we will use to help supervision."

## Discussion

### Problem Identification and Background of PMK No 48/PMK.03/2020 and PMK No 60/PMK.03/2022

The impact of the Covid-19 Pandemic is still being felt today in Indonesia, even globally. Efforts to recover from the impact of the Pandemic are increasingly visible, but the risk of uncertainty still haunts. Moreover, the long-term impact on the economy. The government still has a big task to recover the economic setback and various national socio-economic indicators due to the pandemic. In terms of fiscal management, the government is also required to normalize state financial management and reduce the deficit level back to normal levels.

The implementation of Government Regulation in Lieu of Law (Perpu) Number 1 of 2020 which was later passed into Law Number 2 of 2020 can temporarily reduce the deficit in the State Budget. However, additional efforts are still needed for the government to at least restore the level of revenue back to at least the conditions in 2019. The increase in tax revenue is inseparable from the contribution of Electronic Commerce tax. The widespread use of gadgets, especially during the pandemic which requires not to move outside the home, increases digital consumption in various aspects (entertainment, e-commerce, social media, even education). This is a great opportunity for tax revenue. The government issued Minister of Finance Regulation Number 48/PMK.03/2020 as a follow-up effort. With regard to the large value of transactions and capitalization of intangible goods, the development of the digital economy in Indonesia shows the fastest growth and the largest market size in Southeast Asian countries. Indonesia as a digital archipelago shows a promising projection of the capitalization size of the digital economy in 2025 (Temasek, 2018; Ministry of Finance, 2019). With regard to the concept of tax revenue as a function of tax base and tax rate, the imposition of tax on PMSE will contribute significant tax revenue.

The implementation of PMK 48/2020 has been running well, which can be seen from the PMSE VAT revenue that continues to increase from year to year. The realization of tax revenue will make a major contribution to the government's goal of reducing the state budget deficit. In addition, the issuance of Minister of Finance Regulation Number 60/PMK.03/2022 as a follow-up to the Tax Harmonization Law which took effect in April 2022. Where in the regulation explains that VAT is no longer subject to a 10% rate, but becomes 11% and 12% no later than January 1, 2025. The increase in the VAT rate is a step taken by the government to restore state finances to return to a normal deficit. In addition, the government is also implementing the imposition of a multitiered VAT. This is done considering that the application of the VAT rate in Indonesia is still relatively lower than the rates in OECD countries, so it can still be increased in order to have a positive impact on tax revenue. Indonesia has also not followed the trend of various countries to increase the VAT rate as compensation for the reduction in the Corporate Income Tax rate. Therefore, the application of multiple rates is expected to reduce VAT regressivity to provide a sense of justice and have a positive impact on tax revenue. Liyana, (2021) in her research welcomed this. According to him, the increase in VAT rates will affect the Indonesian economy. It is further explained that the government's motive for increasing the VAT rate is mainly related to Indonesia's economic resilience. However, on the contrary, there are still some parties who have different opinions (Manalu & Wijaya, 2022; Widiyanto & Puspita, 2020). According to him, there is no solution to the problem of the limitations of the PMK No. 48/PMK.03/2020 and PMK No. 60/PMK.03/2022 policies, starting from the absence of equality of tax treatment between PMSE business actors (both domestic and foreign), the dispute resolution process in cases of tax non-compliance, and the clarity of the Permanent Establishment status for foreign PMSE business actors.

The pros and cons of the implementation of PMK 48/2020 and PMK 60/2022 are still a phenomenon that underlies this research. Regarding the pro side (Liyana, 2021), it is stated that the implementation of the policy is very beneficial for the country's economy. This was approved in the academic texts of both the Omnibus Law and the Harmonization of Tax Regulations (HPP) Law.



Tax revenue from PMSE of foreign businesses that have a significant economic presence in Indonesia, in which case the digital content and services are consumed by the Indonesian people, is very helpful for state finances. Moreover, the situation during the pandemic is favorable, requiring all activities to be carried out at home, making the need for gadgets increase. As for activities that are usually carried out outside the home, from grocery shopping to the teaching-learning process must be done at home. To overcome boredom so as not to do activities outside the home, most people utilize digital content as entertainment material. Such as by utilizing overseas digital platforms Spotify as a music streaming platform and Netflix as a video streaming and download platform. Although the results of the Bali G20 Summit have been published, where international tax mechanisms related to PMSE have been discussed. However, the policy is targeted to take effect in 2023. Nevertheless, the implementation of the PMSE VAT policy, especially for foreign businesses (both PMK 48/2020 and PMK 60/2022) has been well underway. Coupled with the PMK 60/2022 policy that increases the VAT rate. This can certainly help reduce the state budget deficit so that it can return to normal in 2023. It is very clear that the purpose of the implementation of PMK 48/2020 and 60/2022 is to help normalize state budget revenues due to the pandemic. In addition, the policy is intended to provide equal tax treatment (level of playing field) between PMSE business actors both domestically and abroad. This is very clearly written on the policy sheet. Thus, this statement can refute the statement by Widiyanto & Puspita (2020).

Regarding the determination of BUT status, this policy is not related to this matter where the VAT principle is a destination principle. Where goods and services are consumed by the local community, they are subject to VAT payable. Although the OECD has outlined several factors of significant economic presence, the existence of BUT has no interference with VAT. BUT itself is an income taxation issue whose implementation began in 2023 by mutual agreement during the G20 Summit in Bali. As long as the tax object, tax subject, and threshold are met, the VAT on PMSE must be collected, deposited, and reported by the PMSE VAT collector. Issues related to the dispute resolution process also remain unresolved in this study. Although it has been explained that the imposition of administrative sanctions and sanctions in the form of termination of access to foreign traders, foreign service providers, foreign PMSE business actors, or domestic PMSE business actors who do not fulfill the provisions. However, it still does not regulate dispute resolution procedures in cases of non-compliance that are needed to anticipate tax non-compliance issues.

#### PMK 48/2020 and 60/2022 Answering RIA Checklist

Regardless of the pros and cons of the enactment of PMK 48/2020 and PMK 60/2022, at least the policy has succeeded in answering the ten-step RIA checklist question in the OECD guidelines. The problems behind the enactment of PMK 48/2020 and PMK 60/2022 have been well defined. The increase in the state budget deficit which has fallen far from normal conditions is the main reason for the government to change the VAT rate, especially on PMSE activities. The government's actions are justified in overcoming these problems. The government has made efforts by issuing policies related to the tax treatment of PMSE activities that will help support the state budget due to the Covid-19 pandemic. The imposition of multiple tariffs and changes in VAT rates to compensate for the downward trend in corporate income tax rates. Transactions of digital goods or services, especially those involving cross-border transactions, cannot be separated from government supervision and tax law enforcement (Zielias, 2021). PMK 48/2020 and PMK 60/2022 are considered the right policies to support government actions. Given that the main purpose of the enactment of these policies is to help reduce the financial deficit. The implementation of the two policies also shows a positive response, especially in the PMSE VAT revenue which continues to increase from year to year. Thus, state revenue can be optimized with PMSE VAT through PMK 60/2022 after previously PMK 48/2020. The legal basis for the establishment of PMK No. 48/2020 is Regulation in Lieu of Law Number 1 of 2020 which was later enacted into Law Number 2 of 2020. Meanwhile, the legal basis for the establishment of PMK 60/2022 is Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times lastly by Law Number 7 of 2021 concerning Harmonization of Tax Regulations. Policy coordination starts from DGT's internal units (compliance, supervision, directorate of PKP, potential

compliance and revenue, PMSE VAT collector data search section), fiscal policy of the Ministry of Finance, Ministry of Communication and Information Technology, and BKPM. The PMSE VAT revenue through PMK 48/2020 and PMK 60/2022 is more beneficial than the tax administration costs incurred by the tax authorities, both in the short term and tax, which can be seen through the realization of PMSE VAT revenue, which has increased from year to year. This is evidenced by the transparent distribution of benefits in the community as evidenced by the strategic output achievement report in the APBN report. However, specific report details related to PMSE VAT and the distribution of benefits have not been attached. PMK 48/2020 and PMK 60/2022 policies are clear, consistent, comprehensive and easily accessible to users. The information can be accessed through the official website of the Ministry of Finance of the Republic of Indonesia ([jdih.kemenkeu.go.id](http://jdih.kemenkeu.go.id)). In addition, all interested parties have the same opportunity to express their opinions. The coordination of PMK 48/2020 and PMK 60/2022 at the final stage is the Ministry of Law and Human Rights. Where the Ministry of Law and Human Rights functions to harmonize with related stakeholders. Is it in accordance with the provisions of laws and regulations, violates human rights and so on. Compliance of PMK 48/2020 and PMK 60/2022 can be achieved with the help of the PMSE VAT collector. Adequate tax administration and technology, supervision from tax authorities, continuous monitoring and evaluation, and cooperation with PMSE VAT collectors who have been appointed to assist with supervision are required. MoF 48/2020 and MoF 60/2022 are supported by the Ottawa Taxation Framework's PMSE policy principles. First, neutrality. Changes in VAT rates apply not only to PMSE activities, but also to conventional activities. Second, efficiency. The government will always minimize the cost of tax collection (the cost incurred by the government in administration) in order to obtain a larger amount of state revenue. The increase in the PMSE VAT rate will increase tax revenue, while the collection costs remain fixed. Third, certainty and simplicity. Although the increase in VAT rates is quite troubling, the implementation of the policy is proportional to the support for the availability of certain strategic goods/services as a government effort in the context of national development (Agasi & Zubaedah, 2022). Fourth, effectiveness and fairness. The change in the VAT rate is intended to rejuvenate the state budget due to the pandemic. Moreover, the imposition of VAT rates in Indonesia is still very far compared to other OECD countries. Fifth, flexibility. The policy to increase the VAT rate plays an important role for the continuation of policy improvements in other taxation fields in the future (Agasi & Zubaedah, 2022).

#### Impact of the Implementation of PMK No. 48/PMK.03/2020 and PMK No. 60/PMK.03/2022

The thing that needs to be underlined in the main changes of PMK No. 48/PMK.03/2020 to PMK No. 60/PMK.03/2022, namely the increase in VAT rates. The increase in VAT rates can increase tax revenue to maintain a normal state budget deficit in 2023 and provide wider fiscal space. Meanwhile, the regulation regarding the appointment of other parties as withholders and/or collectors of both Income Tax and VAT will provide an expansion of the taxation base which will ultimately have a positive effect on state revenue (Ministry of Finance of the Republic of Indonesia, 2021). From a macro perspective, the increase in VAT rates has an impact on price increases for both basic household needs and other needs, and has the potential to cause inflation. Also, price increases can reduce public consumption, thereby reducing people's purchasing power.

In the draft HPP Law, it is explained that the impact of this policy on society when viewed from a social and cultural perspective (Ministry of Finance of the Republic of Indonesia, 2021) is an increase in VAT rates which causes price increases to be felt by both consumers and producers. As a result, it has the potential to cause unrest, especially for low-income people, and can cause riots that endanger security and have a negative impact on political stability.

## 4. Conclusion

The results show that both PMK 48/2020 and PMK 60/2022 were enacted to help reduce the state budget deficit through tariff changes and the imposition of multitarriff VAT. In its formulation, this



policy has a clear legal basis and has been endorsed by several relevant stakeholders. Information related to this policy is very clear and easily accessible to users. In addition, taxpayer compliance can be achieved through cooperation with PMSE VAT collectors who have been appointed to assist with supervision. Its implementation shows a positive response to tax revenue and increases the efficiency of administrative costs incurred. However, the details of the distribution of benefits to the community still need to be transparent. Although the state budget report contains information on the achievement of strategic outputs, a more specific description of PMSE VAT revenue and its benefits has not been clearly distributed. The implementation of PMK 60/2022 has positive and negative impacts. The increase in VAT rates, which has a positive impact on state revenue, has a negative impact on people with low income who will feel the price increase.

Transparency in the distribution of benefits from PMSE VAT revenues needs to be improved by considering the application of benefit analysis in the academic paper for policy making. Thus, public trust will increase. In addition, the academic text of the PMK 60/2022 policy is more easily accessible to the public so that it can be an addition to public literacy in the field of taxation, especially PMSE VAT. This research only considers the government side. It is hoped that future research can look at the public side so that it can be used as comparative material. Meanwhile, this research can be used as material for in-depth analysis using RIA. So that the impact evaluation can be traced.

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