

Fair Competition in The Digital Era: Indonesia's Tax Reform Through Significant Economic Presence

Devina Puspita Sari ¹⁾ & Sy. Muhammad Ikhsan ²⁾

¹⁾ Faculty of Law, Universitas Tanjungpura, Indonesia, E-mail: devina.puspita.s@hukum.untan.ac.id

²⁾ Faculty of Law, Universitas Tanjungpura, Indonesia, E-mail: sy.m.ikhsan@hukum.untan.ac.id

Abstract. *This study examines the development of the Permanent Establishment concept within the Indonesian tax system, the transition to the Significant Economic Presence (SEP) concept under Tax Harmonization Law. The emergence of SEP was driven by digital cross-border business models that allow multinational enterprises to derive economic benefits from Indonesia without a physical presence or permanent establishment. This study is a normative juridical, applying legislative and conceptual approaches in analyzing regulations concerning place of business and SEP concept, as well as to assess their implications for competition law in Indonesia. The research findings indicate that the implementation of SEP constitutes a strategic government measure to broaden the taxation base and overcome the limitations of the place-of-business concept, which previously focused on physical presence. By establishing criteria based on transaction value, number of users, and consolidated gross turnover, SEP provides a legal basis for taxing foreign companies that derive economic benefits from Indonesia, while also promoting fair business competition by closing loopholes for tax avoidance, align with the aims of the Anti-Monopoly Law, which ensuring equal business opportunities, safeguarding the public interest, and fostering a fair, conducive, and efficient business climate.*

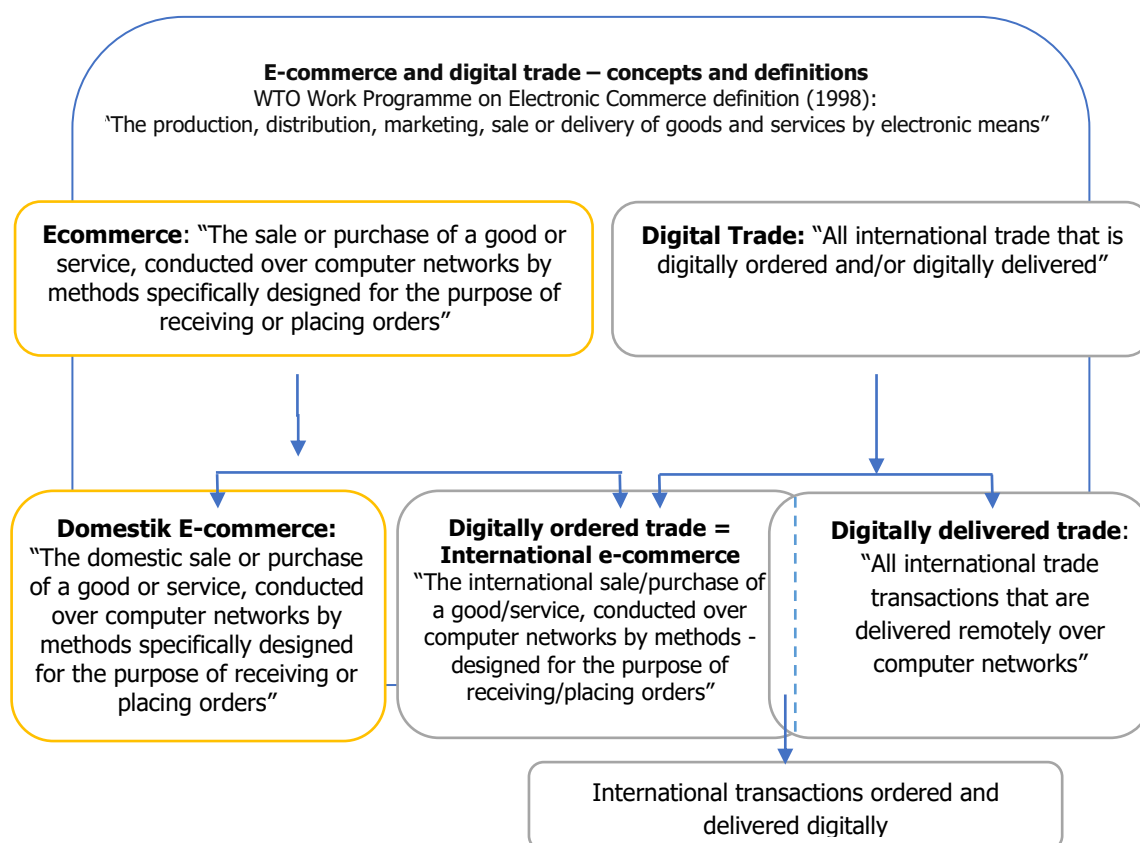
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1. INTRODUCTION

Data from the International Telecommunication Union (ITU) show a significant increase in consumer e-commerce activity. Across 67 countries, the percentage of internet users engaging in online purchases increase from 53% in 2019 to 60% in 2021. Businesses and communities increasingly shifted online to meet their needs, driving significant growth in e-commerce, while digitalization further supported this expansion through financial inclusion and digital payment systems. In developing countries, the share of people who made or received digital payments rose from 35% in 2014 to 57% in 2021, according to the Global Findex Database (UNCTAD, 2025).

In this context, e-commerce and digital transactions have become taxable objects as part of tax intensification efforts. E-commerce is understood as the digital purchase or sale of goods and services through online and platforms, regardless of payment method. E-commerce actors include businesses, households, government agencies,

and nonprofit organizations. The most significant e-commerce flows may be classified as 1) business-to-business (B2B), 2) business-to-consumer (B2C), 3) business-to-government (B2G), and 4) consumer-to-consumer (C2C). Meanwhile, Digital transactions include all digitally ordered or delivered international transactions covering digital services like streaming, cloud computing, online software, telemedicine, online learning, digital banking, and other professional services delivered in digital formats. The following illustration presents the relationship and overlap between e-commerce and digital transactions:



Picture 4.3 E-commerce and Digital Trade

The government's tax intensification efforts (Y. Sri Pudiarmoko, 2007), particularly concerning foreign taxpayers and taxable objects which are income tax, electronic transaction tax, and value-added tax (VAT) for foreign companies benefiting economically from Indonesia—continue to be strengthened. Indonesia's digital economy can no longer be considered a peripheral sector. In 2023, the country's gross merchandise value (GMV) reached USD 62 billion from (C2C) markets alone, with 58.63 million e-commerce users (Jordan Prasetya, 2025)

To support this, the Ministry of Finance, through the Taxation Directorate General, issued Circular Letter Nr. SE-04/PJ/2017 Concerning Determination of Permanent Establishments for Foreign Tax Subjects Providing Implementation and/or Content Services via the Internet (hereinafter referred to as the Directorate General of Taxes Circular Letter Nr. Se-04/PJ/2017). This regulation serves as the basis for Indonesia to impose tax e-commerce companies that do not have a Permanent Establishment in Indonesia but derive income or economic benefits from the country (L.Y. Hari Sih Advianto and Lukman Latif, 2017).

The circular applies not only to e-commerce businesses but also to any digital service providers that gain economic benefits from customers in Indonesia.

The next policy step was the introduction of the Significant Economic Presence (SEP) concept. Under this concept, foreign traders, service providers, and/or foreign Electronic System Trading Operators (PPMSE) can be treated as having a Permanent Establishment. The SEP concept is stipulated in Government Regulation Nr. 80 of 2019 on Electronic Commerce (GR on PMSE), specifically in Article 7 paragraph (1), that a foreign business operator actively offering and/or conducting electronic commerce to consumers residing within Indonesia's jurisdiction, and meeting certain criteria, shall be considered to maintain a physical presence and to carry out business activities permanently within Indonesia. Physical presence's criteria include: 1) the number of transactions; 2) the transaction value; 3) the number of delivered packages; and/or 4) the amount of web traffic or users.

The SEP concept is further reinforced in Government Regulation in Lieu of Law (Perppu) Nr. 1 of 2020 on State Financial Policy and Financial System Stability for the Management of the COVID-19 Pandemic and its subsequent enactment through Law Nr. 2 of 2020 in conjunction with Law Nr. 7 of 2021 on the Harmonization of Tax Regulations (hereinafter referred to as the Tax Harmonization Law). Article 6 paragraph (1) of the Tax Harmonization Law regulates taxation treatment for PMSE. Under this article, e-commerce activities based on the SEP concept may be taxed under Income Tax, Electronic Transaction Tax, and VAT.

The SEP concept establishes tax obligations in a country based on factors that indicate sustained interaction with its economy through technology. The main target is the new business models of digital multinational enterprises that leverage advanced technologies. This concept is expected to promote fair competition for local startups in Indonesia competing with large international digital corporations (Alif Radix Tegar Sejati). The SEP approach represents a breakthrough in taxation, shifting from the traditional "place of business" principle—which often created disparities between local companies and foreign entities profiting from consumers in Indonesia in the absence of physical presence as Permanent Establishment in Indonesia (Vience Mutiara Rumata and Ashwin Sasongko Sastroosubroto, 2017).

The legal issues focus on how the concept of SEP is formulated and implemented within the Indonesian taxation system as an instrument to maintain fair business competition in the era of the digital economy. These issues include the extent to which SEP serves as an effective basis for taxing cross-border digital transactions, the types of taxes imposed on such transactions, and how the implementation of SEP contributes to the creation of a healthy and conducive business environment by ensuring equal business opportunities among large, medium, and small enterprises, as well as between local and foreign businesses, align with the aims of competition law in Indonesia.

The background discussion on the digital economy's development, which enables foreign business actors to derive economic benefits from Indonesia without a physical presence, as well as the development of SEP regulations in Indonesia, highlights the limited scope of existing discussions on the SEP concept, the types of taxes imposed on digital transactions, and their relationship with the objectives of competition law. Therefore, this study is important to present a clearer understanding of the role of SEP

in achieving tax fairness and promoting healthy business competition between local and foreign enterprises in Indonesia.

A previous study entitled *Analysis of Digital Taxation Based on the General Agreement on Trade in Services* emphasized that the physical-presence-based tax system poses a non-tariff barrier to digital taxation for multinational companies. The SEP concept proposed by the Organisation for Economic Co-operation and Development (OECD) offers a solution to this issue, aligning with OECD's mission to foster prosperity, equality, opportunity, well-being, and economic freedom (Sekar Poetry Mahardika, Anugrah Adiastuti and Siti Muslimah, 2024).

This idea underpins the argument of this paper: that applying SEP in digital taxation promotes equity between local businesses in Indonesia and foreign enterprises benefiting economically from Indonesia without physical presence—especially concerning tax obligations. Local businesses conducting operations in Indonesia are required to pay taxes, and therefore, foreign entities generating economic gains from Indonesian consumers should also be obliged to pay taxes, even without a Permanent Establishment in Indonesia.

Another related study titled "*Digital Services Tax Regulation and WTO Non-Discrimination Principle: Is the Deck Stacked?*" examines Indonesian digital service tax regulations and in the European Union (EU) and evaluates whether these measures violate the World Trade Organization (WTO)'s non-discrimination principle under the General Agreement on Trade in Services (GATS). Their findings show that both Indonesia and the EU implement the SEP concept in digital taxation, and SEP does not contradict the WTO's non-discrimination principle (Mutiar Elisabet and Yetty Komalasari Dewi, 2021). While that paper focused on the legal compatibility of SEP under WTO law, this study extends the discussion by identifying which taxes may apply to digital transactions and emphasizing that the imposition targets not only Indonesian entities but also foreign businesses gaining economic benefits within Indonesia. This creates tax fairness between local and foreign enterprises—whether or not they have a Permanent Establishment - thus fostering a conducive business environment.

Previous studies have shown significant focus on digital economy taxation issues and the implementation of the SEP concept. However, these studies have not comprehensively examined the implementation of SEP within the context of Indonesia's national legal framework, particularly with regard to the types of taxes imposed on digital transactions and their relationship with the objectives of competition law. Accordingly, this study occupies a strategic position by extending the analysis of SEP beyond its role as a digital taxation instrument to also serve as a mechanism for achieving tax equity and fostering fair business competition between local and foreign enterprises, irrespective of the presence of a Permanent Establishment in Indonesia.

Accordingly, this paper discusses the SEP concept as part of the government's effort to ensure fair business competition, especially in creating a conducive business environment by regulating fair competition to guarantee equal opportunities for large, medium, and small enterprises business, and also between local and foreign enterprises. The discussion focuses on analyzing the SEP concept, the types of taxes imposed on digital transactions, and the relationship between SEP implementation and the realization of a healthy business environment as one of the aims of law on competition in Indonesia.

2. RESEARCH METHODS

This study employs a normative juridical approach, which examines the concept of SEP as regulated in the Tax Harmonization Law and its positive impact on realizing the objectives of Competition Law—namely, creating a conducive business environment by regulating fair competition to guarantee equal opportunities for large, medium, and small enterprises business. In addition to the statutory approach, this study employs the concepts of PMSE, SEP as the basis for tax imposition, and the objectives of competition law. The primary normative materials use the Tax Harmonization Law. The secondary legal materials consist of a textbook titled *Hukum Persaingan Usaha* (Competition Law) published by the Business Competition Supervisory Commission, also journals related to SEP and digital transactions. The non-legal data are primarily obtained from the official platform of the Taxation Directorate General and the UNCTAD – United Nations Conference on Trade and Development. All legal materials and non-legal data collected are analyzed by examining the relevant norms contained in the Tax Harmonization Law. The findings of this analysis are presented in the conclusion section.

3. RESULT AND DISCUSSION

3.1. The Concept of SEP in Indonesia's Taxation Framework

SEP constitutes a tax approach in which a liability arises within a jurisdiction when a non-resident enterprise has an economic presence meeting specified thresholds based on revenue, digital, and user-related factors. The qualification for SEP are applied in the digital services taxation. The Digital Services Tax (DST) refers to a tax imposed on the income or profits earned by a enterprises from the provision of specific digital services to, or directed at, users within a particular jurisdiction.

Before the implementation of SEP, taxing foreign business entities that benefited economically from Indonesia posed difficulties stemming from policy constraints. This was considered a form of non-tariff barrier (NTB) (Sekar Poetry Mahardika, Anugrah Adiastuti and Siti Muslimah). In Virginia, United States, there was an expansion of tax authority over business entities through the application of SEP. This development can be seen in the Supreme Court of West Virginia decision in the case *West Virginia Tax Commissioner v. MBNA America Bank, N.A.*, where the court broadened the concept of nexus in taxation. Nexus is a term used to describe the connection that must exist between a taxing jurisdiction and an entity in order for that jurisdiction to impose tax obligations on the entity (Andrew Swain and John Snethen, 2007). Historically, under the Commerce Clause and key precedents such as *Quill Corp. v. North Dakota* (1992), the requirement for interstate tax in the United States was the existence of a physical presence. However, that decision introduced a new standard — SEP — as the basis for establishing nexus, even when a enterprises does not have a permanent establishment within the state. West Virginia unilaterally replaced the physical presence standard with an economic test (purposeful direction), which some argued blurred the distinction between the standards under the Due Process Clause and the Commerce Clause. This shift illustrates how state tax authorities have adapted to the rise of the digital economy and borderless trade beyond physical boundaries (Maryann Gall and Laura Kulwicki, 2007)

SEP serves as a solution for imposing taxes on foreign business entities that do not have a permanent establishment in Indonesia. The permanent establishment or

business connection concept involve nexus, economic dependency, and other related factors. It is therefore necessary for each country to establish policies within its jurisdiction regarding SEP as a form of business connection, while taking into account the provisions in multilateral tax treaties and aligning them with the action plans set under the Base Erosion and Profit Shifting framework or called as BEPS. BEPS denotes tax planning strategies adopted by multinational corporations to relocate profits jurisdictions with from higher tax rates to low-tax jurisdictions or tax havens, resulting in the erosion of the source country's tax base (Our Bureau, 2018).

In Indonesia, SEP is implemented under Article 6 of the Tax Harmonization Law. A foreign taxpayer who offers and/or conducts PMSE — that is, engages in digital trade (international trade that is ordered and/or delivered digitally) — with consumers located under Indonesian jurisdiction shall be subject to tax if they meet certain criteria deemed equivalent to having a physical presence in Indonesia. Based on Article 6 of the Tax Harmonization Law, the imposition of tax on foreign taxpayers meeting the SEP criteria may take the form of Income Tax, Electronic Transaction Tax, or VAT.

3.1.1. Income Tax (PPH) and Electronic Transaction Tax in PMSE

Article 6 paragraph (1) letter b, paragraphs (6) and (7) regulate the imposition of income tax on business entities (for examples foreign service providers, foreign merchants, and/or electronic commerce operators) based on the SEP concept. The imposition of such tax is divided into two possible situations. The **first** is the application of income tax on these business entities if they meet the criteria for SEP, which include: (1) consolidated gross revenue meeting a specified threshold; (2) Indonesia sales reaching a specified amount; and/or (3) a certain number of active digital media users in Indonesia.

These criteria are further regulated in Article 53 of Government Regulation Nr. 55 of 2022 regarding Adjustments to Regulations in the Field of Income Tax (Government Regulation on Income Tax Adjustments). The provision states that, in addressing the tax challenges posed by economic digitalization under international tax agreements or arrangements with foreign tax authorities aimed at resolving issues of taxation challenges, base erosion, and profit shifting, multinational enterprises meeting certain criteria as stipulated in such agreements or arrangements are deemed to fulfill subjective and objective tax obligations and therefore are subject to tax in Indonesia. The explanation of Article 53 mentions that such criteria include, for instance, the level of consolidated gross income and pre-tax profit margin of the business group. Accordingly, taxation in Indonesia is imposed on business profits by taking into account the portion of the group's gross income sourced from Indonesia.

These criteria are subsequently regulated under Minister of Finance Regulation on the Designation of Other Parties as Income Tax withholding agents in Electronic Commerce - Nr. 37 of 2025. Article 3 of this regulation provides that other parties designated as income tax withholding agents are Electronic Commerce Operators (PPMSE) domiciled within or outside the Indonesian territory that meet the following criteria: (1) the PPMSE uses an escrow account to hold income; and (2) either (a) has a transaction value with electronic service providers in Indonesia surpassing a certain amount within 12 months, and/or (b) has traffic or users surpassing a certain number within 12 months.

The determination of the transaction value and/or number of users or traffic is further regulated in Taxation Directorate General Regulation Nr. PER-15/PJ/2025 regarding the Threshold Criteria for Other Parties and the Designation of Other Parties to Withhold, Deposit, and Report Income Tax on Income by Domestic Merchants via the Electronic Commerce System. Article 4 of the regulation stipulates that the criteria include: (1) having an escrow account or other integrated payment system; (2) merchant transaction value surpassing IDR 600,000,000 within 12 months or IDR 50,000,000 within one month; and (3) more than twelve thousand active users each year or thousand active users each month. The applicable tax rate is in accordance with Article 22 Income Tax, amounting to 0.5%.

Type of Taxpayer	Specific Turnover (Revenue)	Gross	Withholding Rate	Nature of Tax	Withheld Income	Treatment of Withheld Income Tax
Individual Taxpayer	Below or up to IDR 500 million		No Income Tax withheld			-
	Between IDR 500 million and IDR 4.8 billion		0,5%	Final Income Tax (in accordance with Government Regulation Nr. 55/2022) Non-final (does not meet the requirements of Government Regulation Nr. 55/2022 or opts for the general scheme)	Final	May be credited in the Annual Tax Return
	Above IDR 4.8 billion		0,5%	Non-final		
Corporate Taxpayer	Below or up to IDR 4.8 billion		0,5%	Final Income Tax (in accordance with Government Regulation Nr. 55/2022) Non-final (does not meet the requirements of Government Regulation Nr. 55/2022 or opts for the general scheme)	Final	May be credited in the Annual Tax Return
	Above IDR 4.8 billion		0,5%	Non-final		

Tabel 4.1 Income Tax in Electronic Commerce (PMSE)

Based on the Written Statement Regarding the Plan to Designate Marketplaces as Withholders of Article 22 Income Tax on the Sale of Goods by Merchants through the PMSE, dated June 25, 2025, issued by the Taxation Directorate General, the arrangement concerning design of marketplaces as Article 22 Income Tax withholders is in the process of finalization within the government. Therefore, the implementation of the designation of other parties (marketplaces) as Article 22 Income Tax withholders has not yet been carried out.

In cases where a Double Taxation Avoidance Agreement (P3B) exists among Indonesia and another country (the home state of the business entity), and the business entity also meets the criteria for SEP, the business will be subject to the second possible form of taxation which is the electronic transaction tax. It is imposed on transactions involving the sale of services and/or goods from outside Indonesia via the PMSE to consumer in Indonesia, conducted by foreign taxpayers either directly or through foreign PPMSE. The determination of whether Article 22 Income Tax or electronic transaction tax applies to a PPMSE primarily depends on whether international tax treaties which is about P3B exists between Indonesia and the PPMSE's home country. Digital service providers or PPMSEs that meet the SEP criteria and are covered by a P3B between Indonesia and their home country will not be subject to Income Tax but

instead will be obliged to the electronic transaction tax (Galih Ardin, 2021). In this regard, it is crucial to accurately determine beneficial ownership under P3B to prevent abuse and ensure fairness in taxation (Bernicia Angelica, 2024).

3.1.2. Value Added Tax in PMSE

Regarding the imposition of VAT in PMSE activities, the provisions can be found in Article 6 paragraphs (1)(a), (2), (3), (4), and (5). VAT in PMSE is further regulated under the Minister of Finance Regulation on VAT in PMSE (Nr. 48/PMK.03/2020) jo. Minister of Finance Regulation on the Tax Provisions for the Implementation of the Core Tax Administration System (Nr. 81 of 2024 regarding), as amended by Minister of Finance Regulation Nr. 54 of 2025 (Third Amendment).

VAT at rate of 12 percent is imposed on the use of digital goods and/or services from outside the customs area through PMSE. Similar to income tax, business entities appointed as VAT collectors must meet certain criteria: a) the value's transaction with buyers of goods and/or recipients of services in Indonesia exceeds a specified threshold within 12 months; and/or b. the number of visitors or traffic exceeds a specified threshold within 12 months. PMSE business entities consist of:

1. Foreign PMSE business entities, including foreign merchants, service providers, and PMSE operators; and
2. Domestic PMSE business entities, including domestic PMSE operators.

These PMSE business entities are designated as PMSE VAT collectors if:

1. The transaction value with users of goods and/or services in Indonesia surpass IDR 600,000,000 within a year or IDR 50,000,000 within a month; and/or
2. The number of visitors or users in Indonesia surpass 12,000 within a year or 1,000 within a month.

The types of foreign digital products and services subject to VAT under the Minister of Finance Regulation on VAT in PMSE include music streaming subscriptions, streaming services, digital apps and games, and online services. These foreign digital products are treated the same as conventional goods and services consumed in daily life, which are subject to VAT, as well as similar digital products produced by domestic businesses. This represents a form of equality or equal treatment for all taxpayers—among conventional and digital businesses, as well as among domestic and foreign taxpayers—in order to maintain a fair business competition climate (Directorate General of Taxes, 2020).

As of January 2025, the government has designated 211 PPMSE as VAT collectors (Directorate General of Taxes). From all the designated tax collectors, 181 PMSE entities have carried out collection and deposit activities, as follows:

1. VAT collected through PMSE amounted to IDR 26.12 trillion. This amount consists of deposits of IDR 731.4 billion in 2020, IDR 3.90 trillion in 2021, IDR 5.51 trillion in 2022, IDR 6.76 trillion in 2023, IDR 8.44 trillion in 2024, and IDR 774.8 billion in 2025.
2. Cryptocurrency tax revenue reached IDR 1.19 trillion as of January 2025. This revenue came from IDR 246.45 billion in 2022, IDR 220.83 billion in 2023, IDR 620.4 billion in 2024, and IDR 107.11 billion in 2025. The cryptocurrency tax revenue consists

of IDR 560.55 billion in Article 22 Income Tax from crypto sales transactions on exchanges and IDR 634.24 billion in domestic VAT from crypto purchase transactions on exchanges.

3. Fintech (P2P lending) taxation has also contributed IDR 3.17 trillion in tax revenue up to January 2025. The fintech tax revenue includes IDR 446.39 billion in 2022, IDR 1.11 trillion in 2023, IDR 1.48 trillion in 2024, and IDR 140 billion in 2025. This fintech-related tax consists of IDR 830.54 billion in Article 23 Income Tax on loan interest received by domestic taxpayers and permanent establishments, IDR 720.74 billion in Article 26 Income Tax on loan interest received by foreign taxpayers, and IDR 1.62 trillion in domestic VAT from periodic tax deposits.

4. Tax revenue from other digital economic activities comes from SIPP tax receipts, which reached IDR 2.90 trillion as of January 2025. This revenue includes IDR 402.38 billion in 2022, IDR 1.12 trillion in 2023, IDR 1.33 trillion in 2024, and IDR 53.77 billion in 2025. The SIPP tax revenue consists of IDR 195.54 billion in income tax and IDR 2.71 trillion in VAT.

With the implementation of the SEP concept under the Tax Harmonization Law, PMSE operators are taxpayers obligated to report and pay their taxes in Indonesia. According to Article 2 paragraph (4) of the Tax Harmonization Law, the Taxation Directorate General may officially issue a Tax Identification Number (NPWP) and/or register a taxable entrepreneur if the taxpayer or taxable entrepreneur fails to register voluntarily. Furthermore, Article 7 paragraph (1) of the same law stipulates that if taxpayers do not fulfill their obligations, administrative sanctions may be imposed. According to the elucidation of Article 3 paragraph (1) of the Law on General Provisions and Tax Procedures, delays in submitting tax returns (SPT) are subject to administrative fines, and other administrative sanctions may apply to other forms of non-compliance.

Although the main objective of the Tax Harmonization Law was to stabilize Indonesia's economy and mitigate risks during the pandemic of COVID-19, the imposition of SEP represents a form of tax extensification (broadening) by the government to optimize tax collection. The primary target of this optimization is foreign business entities operating abroad that derive economic benefits from Indonesian residents. SEP serves as a solution to previous challenges in taxing such business entities under the traditional place-of-business concept.

In implementing digital taxation, the Taxation Directorate General must conduct awareness-raising activities and education for business entities to foster comprehensive understanding and reduce potential tax disputes. Additionally, it is necessary to strengthen oversight and law enforcement capacity through the use of digital technology, international data exchange, and cooperation with foreign tax authorities. Strengthened supervision and enforcement are essential to ensure effective tax collection while maintaining a balance between maximizing state revenue and fostering a conducive and competitive business environment. The main challenges faced by the Taxation Directorate General is the cross-border nature of digital transactions, often without physical presence, and the difficulty of tracing encrypted transactions conducted through various global platforms. The Directorate General of Taxes has adopted several monitoring mechanisms, including:

1. Utilizing digital technology to monitor digital transaction activities originating from and directed to Indonesia. Data from marketplaces, banking institutions, fintech companies, and other digital platforms can be analyzed to identify transaction patterns relevant to taxation. This technology also aims to detect indications of tax evasion, transfer pricing, or disguised transactions.

2. In response to the globalization of digital transactions, supervision is carried out using the Automatic Exchange of Information (AEOI) mechanism facilitated by the OECD, which enables the exchange of financial data across jurisdictions. This mechanism allows Indonesia to identify foreign digital companies earning income from Indonesia even without a permanent establishment (Diah Sulistyani Ratna Sediati and Zaenal Arifin, 2024).

3. Establishing bilateral and multilateral cooperation with tax authorities in other countries, particularly those of major digital corporations. Such cooperation may include joint investigations, monitoring of cross-border transactions, and harmonization of international tax regulations under frameworks such as the BEPS Action Plan and the OECD/G20 digital tax agreement (Organization for Economic Cooperation and Development, 2018).

4. Integrating data systems with other ministries and agencies, including the Ministry of Communication and Information Technology, Indonesia's Central Bank (BI), the Financial Services Authority (OJK), and the Ministry of Trade. Through this integration, data on users, transaction flows, and cross-border payments can be used to expand the tax base and minimize revenue leakage (Gde Wahyu Marta Gunadi and I Nyoman Budiana, 2023).

5. Requiring marketplaces and digital platforms to report user transactions and appointing them as tax collectors (VAT collectors). This mechanism has proven effective for VAT collection on PMSE since its implementation in 2020.

Tax law enforcement in the digital era requires a more adaptive, transparent, and collaborative approach. While supervision serves to detect, enforcement ensures taxpayer compliance through corrective measures, sanctions, and dispute resolution. In the context of digital taxation, the Taxation Directorate General can enforce compliance through the following mechanisms:

1. Taxpayers who fail to meet their obligations may be subject to sanctions (interest, fines, or increases in tax liabilities). This mechanism aims to create deterrence and maintain the credibility of the tax system.

2. In cases of non-compliant permanent establishments, the Directorate General of Taxes may invoke the Mutual Administrative Assistance in Tax Matters (MAATM) or Tax Information Exchange Agreements (TIEA). These mechanisms enable Indonesia to request cross-border tax collection or investigations against foreign companies avoiding obligations in Indonesia.

3. Tax enforcement requires the strengthening of digital forensics to trace encrypted or multi-platform electronic transactions. Data-based auditing (e-audit) can detect discrepancies between actual transactions and reported tax data (Panji Wisnu Nugroho and Nur Farida Liyana, 2024).

4. Tax disputes involving multinational corporations often entail dual jurisdiction issues. Therefore, the resolution mechanism must refer to or take into account P3B between the countries concerned. Swift and fair dispute resolution enhances legal certainty and supports a favorable investment climate (Bernicia Angelica).

5. Implementing Country-by-Country Reporting (CbCR) for multinational corporations with global revenues exceeding a specific threshold. This report provides insights into profit locations, business activities, and tax payments, facilitating the detection of BEPS practices (Nala Kurniawan and Anggari Dwi Saputra, 2020).

3.2. Implementing Significant Economic Presence as a Government Effort to Promote Fair Business Competition in Indonesia

Article 3 of the Law on the Prohibition of Monopolistic Practices emphasizes the objectives of the enactment of this law, which are as follows:

1. To protect public interests and improve national economic efficiency as part of efforts to enhance the welfare of the people;
2. To make a real conducive business environment through the regulation of fair competition, ensuring equal opportunities for large, medium, and small enterprises;
3. To prevent monopolistic practices and/or unfair competition by business actors; and
4. To achieve effectiveness and efficiency in business operations.

Several experts argue that the main aim of protecting competition is to protect consumer interests. The rationale (*ratio legis*) is to prevent business actors, particularly large corporations, from using their market position or market dominance to maximize profits by transferring consumer wealth—through purchasing power and consumer needs—into corporate gains. As profit-oriented entities, businesses naturally aim to maximize profit; however, this may conflict with consumer rights. Obtaining competitive prices is a consumer right that must be saved by the country (Andi Fahmi Lubis, et.al., 2017).

Unlike other economic regulations, the Law on the Restriction of Monopolistic Practices not only aims to protect consumer interests but also seeks to achieve overall consumer welfare. This law further seeks to safeguard public interests and enhance national economic efficiency in pursuit of public welfare. This objective represents the constitutional mandate of the 1945 Constitution (UUD 1945) concerning economic democracy, which is realized through a free and fair competition system that guarantees equal business opportunities for all entrepreneurs, while prohibiting business agreements, mergers, or acquisitions that restrict competition and the abuse of economic power. The elucidation of Article 33 paragraph (1) of the 1945 Constitution explains that economic democracy is founded on cooperation and the principle of mutual assistance (*gotong royong*). This characteristic of democracy is reflected in the implementation of an economic system in which all members of society participate for the benefit of the community, with the sole objective of achieving public welfare. This demonstrates the government's commitment to ensuring equal opportunities for all business actors and preventing restrictions on competition, particularly the abuse of power in the economic sector. Ultimately, the goal is to achieve consumer welfare by protecting consumers from corporate misconduct (Kuntongroho Adnan. 2024).

The second objective is to make a real conducive business environment through the regulation of fair competition that ensures equal opportunities for large, medium, and small enterprises. The government is committed in establishing a stable business ecosystem that supports economic growth by implementing the principles of fair competition. A conducive business climate refers to an environment free from monopolistic practices, unfair competition, and market dominance by a few entities. Through fair and transparent regulations, all business actors—large, medium, and small—are guaranteed equal opportunities to compete, grow, and develop. The enforcement of these regulations is not only aimed at preventing harmful practices against competitors or consumers but also serves to encourage innovation, efficiency, and broader employment creation. In this way, economic justice can be achieved, ensuring that all business actors have balanced opportunities to access resources, markets, and business prospects (Andi Fahmi Lubis, et.al.,).

The third objective is to avoid monopolistic practices and/or unfair competition by undertakings. The state, through the Business Competition Supervisory Commission (KPPU), is responsible for maintaining market balance by preventing the emergence of monopolies and forms of unfair competition (Meliyana, et.al., 2025). Monopolistic practices may occur when one business actor dominates the market, thereby hindering or eliminating competitors from entering or developing in the same market. Unfair competition includes practices such as cartels, market allocation, discrimination against business partners, or misuse of a dominant market position to exclude competitors. The Law on the Prohibition of Monopolistic Practices specifies prohibited agreements also activities considered anti-competitive, as outlined in Articles 4 through 24. Such actions not only harm other business actors but also disadvantage consumers by reducing choices, increasing prices, and lowering product or service quality. Preventive efforts are therefore carried out through law enforcement, market supervision, and education for business actors to ensure that business practices are conducted fairly, transparently, and responsibly in accordance with the law. These measures aim to foster healthy competition that encourages efficiency, innovation, and inclusive, sustainable economic growth (Andi Fahmi Lubis, et.al.,).

The fourth objective is to achieve effectiveness and efficiency in business activities. Effectiveness and efficiency are two essential pillars of business sustainability and success. Effectiveness refers to the ability of business actors to achieve established goals, such as improving product quality, customer satisfaction, and market share. Efficiency focuses on optimizing resource use—human resources, capital, time, and raw materials—while minimizing waste. Achieving both effectiveness and efficiency indicates that business operations are targeted, cost-effective, and competitive. This not only enhances a company's competitiveness in the market but also provides added value for consumers through affordable prices and high-quality products or services. Such conditions typically exist in a healthy and open business environment, where competition drives innovation, productivity, and technological advancement to improve business processes (Ruhilawati, Sudirman, and Idris Parakkasi. 2024).

Thus, effectiveness and efficiency are vital indicators of sustainable business practices that contribute positively to the national economy.

Focusing on the second objective and on safeguarding public interests, both have been supported by the implementation of the SEP principle under the Tax Harmonization Law. SEP forms the normative basis for extending taxing rights, allowing the state to

impose taxes on business entities that derive economic benefits from Indonesia (from its territory or consumers). Before SEP was implemented, the definition of a Permanent Establishment under Minister of Finance Regulation Nr. 35/PMK.03/2019 concerning the Determination of Permanent Establishments, which used the place-of-business concept, could not cover business activities that did not meet the Permanent Establishment category.

Since the adoption of SEP in the Tax Harmonization Law, business entities or activities deriving economic benefits from Indonesia are obligated to pay taxes based on the value of those benefits. Although the spirit of the Tax Harmonization Law was to address the COVID-19-related economic challenges, the new SEP provision establishes equal tax treatment between domestic business actors—whether individuals, Indonesian legal entities, or foreign legal entities with a Permanent Establishment — and foreign business entities without a Permanent Establishment that derive economic benefits from Indonesia (Agi Attaubah Hidayat, et.al., 2025). Previously, foreign businesses not classified as having a PE were not subject to tax, creating potential loopholes for tax avoidance. Under the SEP framework, these entities are now taxed on every economic benefit gained from Indonesia through income tax, electronic transaction tax, and value-added tax.

This policy reflects equality and fairness for both local and foreign business actors in tax treatment. Anyone deriving economic benefit from Indonesia must pay taxes on such benefits. This approach is expected to foster a conducive business climate by ensuring that all entities benefiting economically from Indonesia are subject to tax obligations. Such fairness embodies the realization of equal business opportunities for all business actors—large, medium, and small, domestic and foreign—including those without a permanent establishment in Indonesia but who profit from economic activities within the country.

4. CONCLUSION

Based on the analysis above, the implementation of SEP principal in Indonesia's taxation system—particularly through the Tax Harmonization Law and its derivative regulations—constitutes a strategic step to overcome the limitations of the traditional place-of-business concept, which has so far based tax obligations solely on physical presence. SEP provides Indonesia with a legal foundation to impose taxes on foreign companies that derive economic benefits from Indonesian consumers, even if they do not have a Permanent Establishment within Indonesian jurisdiction. By setting criteria based on transaction value, number of users, and gross turnover, the government has successfully expanded the tax base, promoted equality between domestic and foreign business actors, and optimized government revenue generated by the expanding digital economy sector. The implementation of SEP also demonstrates the adaptability of Indonesia's tax system in tackling the global challenges arising from the digital economy, despite remaining challenges such as coordination with international tax treaties and the need to ensure legal certainty for taxpayers. The adoption of SEP in the Tax Harmonization Law serves as a crucial instrument for the government to realize fair and healthy business competition in Indonesia. SEP closes the legal loophole that previously allowed foreign business entities without a Permanent Establishment to avoid tax obligations despite obtaining economic benefits from the Indonesian market. With the enforcement of SEP, all business actors—domestic or foreign, large, medium, or small—are subject to tax obligations on the economic

benefits they earn. As of January 2025, the government has designated 211 PMSE (Electronic Commerce) entities as VAT collectors. This development establishes fairness in taxation while furthering the aims of the Law on the Prohibition of Monopolistic Practices to ensure equal business opportunities, safeguard public interests, and create a conducive, effective, and an efficient business environment for public welfare. Business actors, both domestic and foreign, must enhance tax compliance and adjust their business strategies to align with the prevailing regulations. Furthermore, businesses should implement transparent corporate governance, maintain accountable transaction records, and avoid tax avoidance practices to prevent potential legal sanctions. The application of fair business competition principles should serve as a guiding framework for business operations, ensuring fairness and long-term sustainability. Indonesia, through the Taxation Directorate General, should continue conducting awareness-raising activities and education programs focus on business actors to foster comprehensive understanding and reduce potential tax disputes. In addition, there is a need to strengthen oversight and law enforcement capabilities to ensure that taxation on PMSE is implemented effectively, while maintaining a balance between optimizing state revenue and fostering a conducive and competitive business environment.

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