

Taxation Aspect of Crypto Assets Transaction in Indonesia

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Crypto Asset Overview

Crypto Asset or Cryptocurrency has become a global phenomenon impacting developments in the fields of economy and technology. In Indonesia, the use of cryptocurrency has experienced rapid growth, influenced by factors such as high public interest and fast technological advancements. As a country with a population of 190 million people in the productive age category and a digital market that continues to develop, Indonesia shows great potential in the cryptocurrency sector.

The emergence of Bitcoin in 2009 marked the beginning of cryptocurrency in the world, and Indonesia has not lagged behind in following this trend. Since the early 2010s, more and more Indonesians have started to recognize and invest in cryptocurrencies. Various local crypto exchanges have emerged, offering platforms for buying, selling, and trading various types of cryptocurrencies.

In 2019, the Commodity Futures Trading Regulatory Agency (BAPPEBTI) under the Ministry of Trade of the Republic of Indonesia officially issued regulations recognizing cryptocurrencies as commodities that can be traded on futures exchanges. This marked an important step in providing legal certainty for the crypto industry framework in Indonesia.

In recent years, the adoption of cryptocurrencies in Indonesia has continued to increase. This growth is driven by several factors, including increased internet access, the popularity of digital investments, and the interest of the younger generation in new technologies. Data obtained from the Indonesian Blockchain Association, a non-profit organization recognized by the Indonesian government, shows that the number of crypto investors in Indonesia has reached millions of people, with trading volumes continuing to increase every year.

Based on the background above, the Indonesian government provides legal certainty regarding tax regulations to parties conducting crypto asset transactions through the provision of Minister of Finance Regulation Number 68 Year 2022 (MoFR 68/2022) regarding Value Added Tax (VAT) and Income Tax on Crypto Assets Trading Transaction considering that the income received from these trading transactions also provides additional economic capacity for taxpayers.

Terminology of Crypto Asset

Crypto Assets shall be intangible commodities that take the form of digital assets, using cryptography, peer-to-peer networks and distributed ledger, in order to regulate the creation of new units, verify transactions and secure transactions without any intervention of other parties.

Tax Subject in Relation to Crypto Asset Transactions

1. Crypto Asset Seller shall be an individual or entity that sells and/or exchanges Crypto Assets
2. Crypto Asset Buyer shall be an individual or entity that receives or should receive the delivery of Crypto Assets and that pay or should pay the price of the relevant Crypto Assets.
3. Crypto Asset Physical Trader shall be a party authorized by a competent official in accordance with the provisions of laws and regulations that regulate commodity futures trading, to conduct Crypto Asset transactions, either on their behalf and/or to facilitate the transactions of Crypto Asset Seller or Crypto Asset Buyer.
4. Crypto Asset Miner shall be an individual or entity that verifies Crypto Asset transactions in order to obtain fees in the form of Crypto Assets, either individually or in a mining pool.
5. Electronic System Trade Operators shall be a business actor that provides electronic communication facilities used for Crypto Asset trading transactions, including Crypto Asset Physical Trader.

VAT Treatment on the Delivery of Crypto Assets

Part One: Delivery of Crypto Assets by Crypto Sellers

Delivery of **Intangibles Taxable Good in the form of Crypto Assets by Crypto Sellers**, refers to:

1. Sales and purchase of Crypto Assets with fiat currency;
2. Exchange of Crypto Assets with Other Crypto Assets (swap); and/or;
3. Exchange of Crypto Assets with non-Crypto Assets and/or services.

This is carried out by Crypto Asset Sellers within the Customs Area and/or to Crypto Asset Buyers within the Customs Area through Electronic Means provided by PPMSE (Electronic System Trade Operator), which are subject to Value Added Tax (VAT) **at a specified amount**, collected, deposited, and reported by PPMSE, which at the very least engage in the following activities:

1. Sales and purchase of Crypto Assets with fiat currency;
2. **Exchange of Crypto Assets with Other Crypto Assets (swap);** and/or
3. Electronic wallets (e-wallet), including deposit, withdrawal of funds, **transfer of Crypto Assets to other parties' accounts**, and

the provision and/or management of Crypto Asset storage media.

For aforementioned transactions VAT should be levied at a **specified amount** set as follows:

- a. 1% (one percent) of the Value Added Tax rate, multiplied by the Crypto Asset transaction value, in the event that Electronic System Trade Operator is a Crypto Assets Physical Trader; or
- b. 2% (two percent) of the Value Added Tax rate, multiplied by the Crypto Asset transaction value, in the event that the Electronic System Trade Operator is not a Crypto Assets Physical Trader.

In the event that the delivery of Crypto Assets is carried for the purpose of exchange of Crypto Assets with other Crypto Assets (Swaps) or Transfer of Crypto Assets to other parties accounts, the transaction value shall be equal to the conversion value of Crypto Assets into Rupiah Currency based on:

- a. The value stipulated by the futures exchange that organizes Crypto Assets trading; or
- b. Based on the value inside the system owned by the Electronic System Trade Operator.

Part Two: Delivery of Services Which Provide Electronic Facilities Used in Crypto Asset Trading Transactions

Services which provide Electronic Facilities used to facilitate Crypto

Asset Transactions shall at least be in the form of the following activities:

- a. Sales and purchase of Crypto Assets using fiat currency;
- b. Exchange of Crypto Assets with other Crypto Assets (swaps); and/or
- c. Electronic wallets (e-wallet) including deposit, withdrawal of funds, transfer of Crypto Assets to other parties' accounts, and provision and/or management of Crypto Assets storage media.

These services are **subject to Value Added Tax (VAT)** by multiplying the VAT rate with the tax basis (Dasar Pengenaan Pajak, DPP) and must be collected by PPMSE, which is a Taxable Entrepreneur (Pengusaha Kena Pajak, PKP). The Tax Basis referred to here shall be in the form of reimbursement, namely the amount of commissions or fees in any name and form, including commissions or fees received by Electronic System Trade Operator which will be forwarded to the Crypto Asset Miners.

If the Compensation received the Electronic System Trade Operator is in the form of:

1. Fiat currency other than Rupiah currency, the relevant fiat currency is to be converted into Rupiah based on the exchange rate stipulated by the Minister; or

2. Crypto Assets, the relevant Crypto Assets are to be converted into Rupiah based on:

- a. The value stipulated by the futures exchange that organizes the Crypto Asset trading; or
- b. Based on the value inside the system owned by the Electronic System Trade Operator.

Part Three: **Delivery of Crypto Asset Transaction Verification Services by Crypto Asset Miner**

The delivery of **Crypto Asset transaction verification services and/or mining pool management services** by Crypto Asset Miner is subject to VAT at a specified amount and is collected by Crypto Miners who are registered as Taxable Entrepreneurs (PKP).

The **certain amount** referred here shall be stipulated at 10% (ten percent) of the Value-Added Tax rate, multiplied by the monetary value of any Crypto Assets received by Crypto Asset Miner, including Crypto Assets received from the Crypto Asset system (block rewards).

In the event that the rewards received by the Crypto Asset Miner on the delivery of Crypto Assets in relation to transaction verification services and/or mining pool management services are in the form of:

1. Fiat currency other than Rupiah, the relevant fiat currency shall be

converted into Rupiah based on the exchange rate stipulated by the Minister; or

2. Crypto Assets, the relevant Crypto Assets shall be converted into Rupiah based on:
 - a. The value stipulated by the futures exchange that organizes the Crypto Assets trading; or
 - b. Based on the value inside the system owned by the Crypto Asset Miners.

Income Tax Treatment of Income in Relation to Crypto Assets

Part One: Income Tax on Income Received or Obtained by Crypto Asset Seller in Relation to Crypto Asset Transactions

Income received or obtained by Crypto Asset Seller in relation to Crypto Asset transactions as shall be the object of Income Tax. This income includes earnings from all types of Crypto Asset transactions, in the form of:

- a. Transactions involving payments in fiat currency;
- b. Exchange of Crypto Assets with other Crypto Assets (swap); and/or
- c. Crypto Asset transactions other than the transactions as referred to in letter a and letter b.

which are conducted through Electronic Facilities provided by the Electronic System Trade Operator.

The income mentioned above is subject to Article 22 Final Withholding Tax (PPH 22 Final), which shall be collected, deposited, and reported by the Electronic System Trade Operator at the following rate:

- a. 0.1% (zero point one percent) of the transaction value of Crypto Assets, excluding VAT and Luxury Goods Sales Tax (PPnBM), if PPMSE is a **Physical Crypto Asset Trader**; or
- b. 0.2% (zero point two percent) of the transaction value of Crypto Assets, excluding VAT and Luxury Goods Sales Tax (PPnBM), if PPMSE is **not a Physical Crypto Asset Trader**.

Transaction value of Crypto Assets as referred above shall be:

1. Monetary value paid by the Crypto Asset Buyer, excluding Value Added Tax and Sales Tax on Luxury Goods, in the event that the Crypto Asset transaction is conducted through payment in the form of fiat currency;
2. The value of each of Crypto Assets that are delivered by the parties to the transaction, excluding the Value Added Tax and Sales Tax on Luxury Goods, in the event that the Crypto Asset transaction is conducted by way

of exchange with other Crypto Assets; or

3. The amount of payment received by the Crypto Asset Sellers, in the event that the Crypto Asset transaction is a transaction other than the transactions as referred to in Article 20 paragraph (2) letter a and letter b.

In the event that the Crypto Asset transactions is conducted through the exchange of Crypto Assets with other Crypto Assets (swap), the transaction value is determined by converting Crypto Assets into Rupiah, consistently based on:

1. The value stipulated by the futures exchange that organizes the Crypto Assets trading; or
2. The value inside the system owned by the Electronic System Trade Operator.

Electronic System Trade Operator which is exempted from the obligation to collect Article 22 Income Tax shall be the Electronic System Trade Operator which:

- a. Only provides e-wallet services;
- b. Only brings together Crypto Asset Sellers and Crypto Asset Buyers; and/or
- c. Does not facilitate Crypto Asset trading transactions.

In the event that the Electronic System Trade Operator (PPMSE) is exempted from the obligation to withhold Article 22 Income Tax (*PPh Pasal 22*), then

the Crypto Asset Seller becomes responsible for individually depositing the due Article 22 Income Tax for their transactions.

An exemption from Article 22 Income Tax may apply if the Crypto Asset Seller is a Non-Resident located in countries that have a tax treaty (P3B) with Indonesia, where the tax jurisdiction is not in Indonesia, and provides a domicile certificate to the domestic Electronic System Trade Operator (PPMSE).

Part Two: **Income Tax on Income Received or Obtained from the Provision of Electronic Facilities and/or Crypto Asset Trading Transactions, and Collection of Income Tax by Electronic System Trade Operator**

Income received or obtained by Electronic System Trade Operator from the provision of Electronic Facilities used for Crypto Asset transactions shall be the object of Income Tax. Income from the provision of Electronic Facilities used for Crypto Asset transactions shall include all rewards received or obtained by Electronic System Trade Operator, in the form of fees for:

- a. Delivery of services for the provision of Electronic Facilities used for Crypto Asset transactions;
- b. Delivery of withdrawal services;
- c. Delivery of deposit services;

- d. Delivery of Crypto Asset Transfer between electronic wallets (e-wallet);
- e. Delivery of services for the provision and/or management of Crypto Assets storage media or electronic wallets (e- wallet);
- f. Delivery of other services in relation to Crypto Asset other than as referred to in letter a to letter e.

Income from the provision of Electronic Facilities used for Crypto Asset transactions shall be subject to Income Tax based on the general rate in accordance with the provisions of Income Tax Law.

Part Three: **Income Tax on Income Received or Obtained by Crypto Asset Miner in Relation to Crypto Asset**

Income received or obtained by Crypto Asset Miner in relation to Crypto Assets shall be the object of Income Tax. Income in relation to Crypto Asset shall include income in the form of service fees which are received or obtained by Crypto Asset Miner, including:

- a. Income from the Crypto Asset system in the form of block rewards, fees for transaction verification services (transaction fees), or other income from the Crypto Asset system; and/or
- b. Other income than the income as referred to in letter a.

Income in relation to Crypto Asset as referred above shall be subject to

Article 22 Income Tax which is final and shall be required to be deposited individually by Crypto Asset Miner at a rate of 0.1% (zero point one percent) of the income received or obtained by Crypto Asset Miner, excluding VAT and Sales Tax on Luxury Goods.

In the event that the income is in the form of Crypto Assets, the relevant income must be converted into Rupiah based on the Crypto Asset value at the time when it is received or obtained, inside the system of Electronic System Trade Operator selected by the Crypto Asset Miner based on:

1. The value stipulated by the futures exchange which organizes the Crypto Asset trading; or
2. The value inside the system owned by the Electronic System Trade Operator selected by the Crypto Asset Miners

Income received or obtained by Crypto Asset Miners from Crypto Asset transactions conducted through Electronic Facilities provided by Electronic System Trade Operator, shall be subject to Income Tax in accordance with the provisions of Income Tax Law on income received or obtained by Crypto Asset Seller in relation to Crypto Asset transactions.

Taxation Aspect of Crypto Assets Before MoFR-68/2022

Part One: **Crypto Asset was not an Intangible Taxable Goods (BKPTB) until the issuance of MoFR-68/2022**

The VAT provisions regulate the object of VAT before the issuance of MoFR 68/2022, namely tangible or intangible taxable goods in accordance with Article 1 and Article 4 paragraph (1) of the VAT Law. In line with this, the laws that apply to crypto assets before the issuance of MoFR 68/2022 are as follows:

a. **Crypto asset is a commodity**

Based on the Minister of Trade Regulation Number 99 of 2018 dated October 2, 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading where the Government determines Crypto Assets as commodities.

b. **Crypto asset is not a currency**

Based on Bank Indonesia Press Release No. 16/6/Dkom dated February 24, 2014, Bank Indonesia stated that Bitcoin and other virtual currencies are not currencies or legal tender in Indonesia.

Similar affirmation was also conveyed through Bank Indonesia Press Release No. 20/4/Dkom

dated January 13, 2018, Bank Indonesia confirmed that virtual currencies including Bitcoin are not recognized as legal tender, so they are prohibited from being used as a means of payment in Indonesia. Bank Indonesia said that ownership of virtual currency is risky and full of speculation. This risk arises because there is no responsible authority, no official administrator, and no underlying asset underlying the price of virtual currency.

Part Two: **If VAT is imposed on crypto asset transactions before the issuance of MoFR-68/2022, this is a determination that is not based on applicable regulations and is contrary to the principle of legality.**

The legal principle of legality "*Nullum delictum, nilla poena sine lege praevia poenali*" which means that there is no offense or punishment in the absence of regulating provisions. The principle aims to maintain fairness, predictability (where a person can predict its actions whether in accordance with the provisions or contrary), and transparency. The principle aims to ensure that the government acts according to the law and does not act arbitrarily without legal considerations. The principle of legality will foster public confidence in the legal system with consistency and fairness in the application of the law.

Taxation provisions as part of the constitutional law order should be subject to the principle of legality, as explained by Prajudi Atmosudirdjo in the book *Hukum Administrasi Negara*, which states that the government in exercising public authority must follow the rules of state administration law so that there is no

abuse of authority, by being bound by several principles, including: a) the principle of jurisdiction where every decision and government administration must not violate the law; and b) the principle of legality where decisions or stipulations taken by the government are stipulated by law.

As explained above, the determination of crypto assets as Intangible Taxable Goods is regulated in MoFR 68/2022 and comes into force on May 1, 2022. The following is a timeline of statutory provisions governing Crypto Assets:

Timeline of Crypto Assets Provisions



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