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Legal Responsibilities of Foreign Investors in Establishing Unicorn Start-Up Companies in Indonesia

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ABSTRACT

This article aims to identify and analyze the responsibilities of foreign investors towards financial management in Unicorn-category Start-Up companies to increase foreign exchange and taxes of the Indonesian State. The flow of globalization is increasing very rapidly and the development of the digital world. Indonesia is one of the countries with the highest e-commerce growth which continues to grow every year, in 2013 internet users were recorded at 72.8 million and in 2016 it became 102.8 million, in 2019 there were 130 million people. PT.PMA needs strict supervision of the financial system including how to collect taxes, considering that the capital invested is not small. A legal system capable of creating certainty, justice, and efficiency as an effort to develop market mechanisms in the era of economic globalization. Without special rules regarding the supervision of foreign investors, of course it will make it difficult for the government to collect taxes and move the financial management system. The research method was carried out normative-empirical which was presented in a qualitative descriptive. Some company investors in start-up companies come as a whole from domestic investors and some even use foreign investors to intervene. Article 5 paragraph (2) of the Company Law states that foreign investment in Indonesia must be in the form of a Limited Liability Company (PT) based on Indonesian law and the government in this case is not allowed to grant "special rights" to treatment of a country. Start-up companies, both foreign and domestic, must pay taxes in accordance with the provisions imposed in Indonesia. With the implementation of this tax, it has resulted in an increase in state profits. Apart from affirming the obligation of investors to pay taxes, the principles of sound corporate governance are embodied, respecting

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the cultural traditions of the community, and implementing corporate social responsibility.

Keywords: Responsibility; Foreign Investors; Finance; Tax

INTRODUCTION

The flow of globalization and the development of the digital world is increasing very rapidly. Especially in the economic field in trading activities known as Electronic Commerce (e-commerce). The trading system used in e-commerce is designed to sign electronically from purchase, inspection, and delivery. Indonesia is one of the countries with the highest e-commerce growth which continues to increase every year, in 2013 internet users were recorded at 72.8 million and in 2016 it became 102.8 million, in 2019 there were 130 million people. Launching data from One Data Science, there are 10 of the best e-commerce business players in Indonesia compiled in comScore data covering around 67 million digital populations, namely Lazada Indonesia, Matahari Mall, Blibli, Zalora Indonesia, JD Indonesia, Tokopedia, Elevania , Shopee, Bukalapak, Qoo10. Investment realization data from the Indonesian Investment Coordinating Board, Domestic Investment and Foreign Investment. Each January-March 2018 period reached a figure of IDR 185.3 trillion, an increase of 11.8% from the same period in 2017 of IDR 165.8 trillion.

Indonesia is a developing country, therefore it is inseparable from the need to carry out development that does not require little capital or in other terms, requires a very large investment. Initially, investment activities in Indonesia began in 1967 with the issuance of Law Number 1 of 1976 concerning Foreign Investment (PT.PMA) in conjunction with Law Number 11 of 1970 concerning amendments and additions to Law No. 1 of 1967 concerning Foreign Investment and Law No.6 of 1968 concerning Public Investment.

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The success of a national development cannot be separated from foreign investment as a supporting factor and contributing to determining growth in the economic sector. Of course, this foreign investment will accelerate from the side of modernization in the State of Indonesia, besides that it can also encourage business expansion of business actors taking part in the State of Indonesia. The business referred to in this case is the business of start-up companies categorized as unicorns, Unicorn in the Start Up area is a company that has a value of more than US $ 1 billion Rupiah, therefore almost the entire company is inseparable from sponsors from other parties. The company has the principle that the more investors there are, the more profits will be obtained, considering that the start-up company is actually a start-up company, so at the beginning of this company it will experience a lot of costs compared to the income.

Whereas in order to accelerate the development of development in the national economic sector as well as to realize the political and economic sovereignty of the Indonesian State, it is necessary to increase investment to transform this economic potential into real economic strength by using both domestic and foreign capital. In Indonesia, which regulates investment is regulated in Law Number 25 of 2007 concerning Investment (UUPM), in Article 1 paragraph 3 of the Company Law states that foreign investment is an activity of investing to conduct business in the territory of the Republic of Indonesia which is carried out by foreign investors, whether using foreign capital entirely or joining forces with domestic investors. Meanwhile, Article 5 paragraph (2) of the Company Law states that foreign investment in Indonesia must be in the form of a Limited Liability Company (PT) based on Indonesian law. The government in this case is not entrusted with giving different treatment between domestic investors and foreign investors, so there is no term of granting “special rights” to a country. Such investment cannot be avoided by the existence of tax collection, especially taxes in the e-commerce sector regulated in the Circular of the Director General of Taxes SE-62 / PJ / 2013

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concerning the confirmation of taxation of e-commerce transactions and the Trade Law Number 7 of 2013 In terms of investment, it is prohibited to commit corporate crimes in the form of tax crimes, inflating costs to minimize profits resulting in state losses. In tax collection, the implementation is often less than optimal which results in the lack of compliance of business actors in digital companies in paying taxes. Even though it has been regulated in these provisions as in the Minister of Finance Regulation (PMK) Number 48 / PMK.03 / 2020 concerning Procedures for Appointment, Collection and Deposit, as well as Value Added Tax Reporting on Utilization of Intangible Taxable Goods and / or Taxable Services from outside the customs area inside the customs area through trading through an electronic system.

The government, through the Director General of Taxes is supposed to collect data on companies that are included in the Trading scheme through the Electronic System (PMSE). With the schema data collection through an electronic system (PMSE) like this, of course, it will make it easier for the government to collect taxes on companies in Indonesia. Considering that in other countries, namely South Korea, it is necessary to immediately intensify tax revenues from foreign companies. Even based on National Tax Service (NTS) data, it was found that there were still many foreign corporations operating in South Korea that did not pay corporate income tax (PPh) at all in 2019. This can be used as a comparison reference in the application of tax collection on companies. established in Indonesia, especially the establishment of foreign companies. For now, foreign companies are still easily established and are growing rapidly in Indonesia, therefore, with the PMSE, these foreign companies will pay taxes obediently, thereby increasing the country's foreign exchange which is aimed at the welfare of the people.

Adolf Wagner gave his view on the principle of tax collection (Adolf Wagner in Sindian Isa D, 1995: 18), which argues that there are four principles in collection, namely in the financial-political field where this principle has the meaning that tax

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collection is sufficient easy to implement, in the economic field where this principle is closely related to its sources, tax consequences, the principle of justice which can be interpreted as an equitable understanding that applies generally and evenly, the principle in the field of administration which means must be certain, precise and not costly Lots.

It is on this basis that Wagner compiled these principles from various angles, namely the financial-political, economic, justice and administrative angles. Rochmat Soemitro prefers the way of collecting taxes in terms of financial-political, economic, fairness and administration as was done by Wagnerr, but according to him the main and highest principle is the principle of justice to achieve general welfare (Pranoto, 2016, p. 401). Testing of the validity of Wagner's law has been widely carried out since Wagner's statement was translated into English in 1950 (Dimitrios & Richter, no date). Most studies reported using time series data, testing at the level of one particular country, generally in developed countries. One of the countries where many studies to test Wagner's law were conducted in Greece, including by: Georgakopolous & Loizides (1994: 12-29), Hondroyiiannis & Papapetrou (1995: 67-79). Neither study found Wagner's law applicable in the Greek economy. Furthermore, in a study conducted by Dritsakis & Adamopoulos (2004: 457-464), Sideris (2007), and Katrakilidis & Tsaliki (2009: 57-78) concluded that Wagner's law applies in the case of the Greek state. (Ni, 2012, pp. 1-24).

The government has now implemented digital taxes starting August 1, 2020, namely goods or services sold by digital-based international companies are required to pay a Value Added Tax (VAT) of 10%. However, in this case the government does not yet have a valid database regarding the number, type of business and length of business of products that use online media. Without a valid database, it is feared that the form of a financial management system is not clearly recorded for its usefulness. With the presence of PT.PMA, it is necessary to have close supervision

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of the financial system including how to collect taxes, considering that there is not a small amount of capital invested. A legal system that is able to create predictability, fairness and efficiency as an effort to develop market mechanisms in the era of economic globalization. Without a special form of regulation regarding the supervision of foreign investors, of course it will make it difficult for the government to collect taxes and move the financial management system. Maximum supervision definitely adds to the country's foreign exchange, for that it is necessary to have regulations that are prepared accurately. Based on the description above, the researcher is interested in conducting a study entitled "**LEGAL RESPONSIBILITIES OF FOREIGN INVESTORS IN ESTABLISHING UNICORN START-UP COMPANIES IN INDONESIA**".

Based on the background above, the writer formulates and aims to find out: What is the philosophical basis for the responsibility of foreign investors to manage the financial system in unicorn start-up companies established in Indonesia. Then look at how the formulation of the government is right to increase the foreign exchange and taxes of the Indonesian State for start-up companies categorized as unicorns. Will the tax deregulation in the e-commerce sector provide compliance with business actors to pay taxes in accordance with the provisions?

METHOD

Methodology is derived from the basic words of method and logic. Method means how to do something in an orderly manner, while logic means a science based on logical thinking, so that it can be interpreted that methodology is the science of how to do something orderly. The methodology essentially provides guidance, about the ways a scientist studies, analyzes, and understands the environments it faces. Research is a scientific activity related to analysis and construction, which is carried out methodologically, systematically and consistently. Legal research is a scientific activity, which is based on a method, systematic, and certain thinking, which aims to study one or several specific legal phenomena, by analysing them. Legal research is a process to discover both the impact of a past event and its implications for the future. Legal research method

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means the knowledge of how to conduct legal research regularly.

The nature of the research, entitled LEGAL RESPONSIBILITIES OF FOREIGN INVESTORS IN ESTABLISHING UNICORN START-UP COMPANIES IN INDONESIA, is a normative and empirical legal research. Normative legal research is legal research that uses secondary data. Empirical legal research is legal research that uses primary data. This research is said to be normative legal research because what is being studied is library material or secondary data, which includes primary, secondary and tertiary legal materials, namely regarding the form of foreign investors' legal responsibility for the establishment of start-up companies in Indonesia. Field research was conducted to obtain primary data, namely regarding the form of implementation of the financial management system in the establishment of a start-up company categorized as Unicorn in Indonesia and the appropriate form of government formulation to increase foreign exchange and taxes of the Indonesian State. Field research was conducted to obtain primary data in the form of empirical facts that exist in practice. The method of collecting data in field research is by direct interviews with respondents. Interviews are intended to conduct direct questions and answers between researchers and research subjects to obtain data. In this study the focus of the interview is on the legal responsibility of foreign investors for the establishment of unicorn start-up companies in Indonesia. The data collection tool used by researchers in relation to conducting field research is an interview guide. The interview guide used by the author is a list of questions arranged systematically and relating to the issues discussed in the study. The interview guide was made openly which was not structured and contained only the main points of the problem, then the researcher conducted direct interviews with sources related to the problems in this study. Analysis of data obtained from library research and field research then grouped, selected and analyzed. The method used by researchers to analyze research data is a qualitative method, which is done by comparing primary data obtained from field research and secondary data obtained from library research. Secondary data obtained from library research, became the first data analyzed by the author. The secondary data becomes a reference for conducting field research. The author then looks for primary data obtained from field research on entrepreneurs and financial staff of start-up companies categorized as Unicorn in Indonesia. The primary data that has been obtained by the author is then analyzed based on existing legal theory and applicable laws and regulations. The final result achieved is the difference between theory and practice in the field or in society. The

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results of the subsequent analysis are presented in a qualitative description.

RESULTS AND DISCUSSION

Philosophical basis of The Legal Responsibilities of Foreign Investors in Establishing Unicorn Start-Up Companies in Indonesia

Start-Ups are identical to businesses that use technology that are conducted online or on the web. Generally, the establishment of a start-up company is in the form of an application in digital form and its services operate on the website. Start-up companies categorized as unicorns are companies that have a valuation or value of USD 1 billion like companies in Indonesia, namely Go-Jek, Tokopedia, Bukalapak and Traveloka. In connection with the current level of globalization, it has increased very rapidly in the development of the digital world. Especially in the field of economics in trading activities known as Electronic Commerce (e-commerce). The trading system used in e-commerce is designed to sign electronically from purchase, inspection, and delivery. Indonesia is one of the countries with the highest e-commerce growth which continues to increase every year, in 2013 internet users were recorded at 72.8 million and in 2016 it became 102.8 million, in 2019 there were 130 million people. Launching data from IlmuOne Data, there are 10 of the best e-commerce entrepreneurs in Indonesia compiled in comScore data covering around 67 million digital populations, namely Lazada Indonesia, Matahari Mall, Blibli, Zalora Indonesia, JD Indonesia, Tokopedia, Elevania, Shopee, Bukalapak, Qoo10. Investment realization data from the Investment Coordinating Board (BKPM), Domestic Investment (PMDN) and Foreign Investment (PMA) per January-March 2018 period reached IDR 185.3 trillion, an increase of 11.8% from the previous period. same in 2017 amounting to IDR 165.8 trillion. In connection with the transformation of start-up companies, especially in the Unicorn category, this is inseparable from the need for investors as funders to be able to survive and continue to grow.

Company investors in start-up companies come as a whole from domestic

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investors and some even use foreign investors to intervene. On the other hand, the entry of foreign investors will have an effect on foreign exchange taxes in the State of Indonesia, besides that with the intervention of foreign investors, this can support the existence and development of the start-up company so that it will get greater profits than without additional investors. This is also strengthened according to the results of our interview with Mr. Yacobo P. Sijabat, S.E., M.Sc. as an academic in taxation economics, that with the influence of foreign investors it will increase foreign exchange and state income because these start-up companies are tax objects so they have to pay taxes. This has been stated in Article 23, Article 24, and Article 26 of Income Tax which describes taxes imposed on income on capital, service delivery, or gifts and awards. Meanwhile, in Article 24 of Income Tax, the regulations governing the rights of taxpayers to take advantage of their tax credits abroad to reduce the value of the tax owed in Indonesia. Thus, the amount of tax that has to be paid in Indonesia can be reduced by the amount of tax they have paid abroad, provided that the value of the tax credit abroad does not exceed the tax payable in Indonesia.

This means that those from abroad may be subject to the obligation to pay taxes. Whereas in Law Number 36 of 2008, Income Tax Article 26 is an income tax imposed on income received by foreign taxpayers from Indonesia other than a permanent establishment in Indonesia. This means that with this provision, it states that all business entities that carry out payment transactions (salaries, interest, dividends, royalties and the like) to foreign taxpayers are obliged to withhold Article 26 Income Tax on the transaction.

Start-up companies have an influence in national development that can move the wheels of the economy in increasing the country's foreign exchange income or state income as well as increasing the existence of financial technology. Furthermore, according to the statement of Mr. Yacobo P. Sijabat, SE, M.Sc also, with the provisions contained in the regulations in the Financial Services Authority

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(OJK), that to support the existence of startup business actors or start-up companies to contribute to the national economy, through the provision of alternative sources of funding based on information technology. Therefore, the OJK stipulates its regulations on crowdfunding services through Information Technology-Based Stock Offerings. This means that it is also permissible in the OJK regulation, that investors can buy shares through crowdfunding services, of course the criteria are regulated, namely investors with an income of up to five hundred million rupiah per year can buy shares of 5% of total income per year, while with an income that is more than five hundred million rupaiah per year can purchase 10% share per year.

Basically, a start-up company is a service provider company using digital technology in the form of an application that makes it easier for the general public to meet their daily needs. For example, the Go-jek company that makes it easier for people to find rental vehicles to take them from one place to another. Likewise, start-ups engaged in e-commerce, which essentially bring together traders and buyers through the application page. Therefore, start-up companies finance the company's operations and develop their business and build their business ecosystem by cooperating with investors. Moreover, foreign investors who are involved in investing in start-up companies, which means venture capitalists are competing to pour out funds / capital to finance start-up companies that are considered to be able to provide profits in accordance with the invested capital. When the valuation of the company is getting higher, this company can be sold at a very high price, or conduct an Initial Public Offering (IPO) with a high share price per share. That's when the company makes a profit, and the financier makes a profit.

In the era of economic globalization, Indonesia as a country with foreign investment recipients in the largest category, this shows that the Indonesian state is an object for foreign investors to invest their foreign capital in companies that cannot be separated from start-up companies in Indonesia. Indonesia. This is also reinforced by the large number of internet users in Indonesia, which is proven by

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the high interest in shopping online, namely in 2019 there were 107.2 million internet users. In addition, approximately 87 (eighty-seven) million people or a third of Indonesia's population are aged 16 to 35 years, and around 100 million people, coupled with a demographic condition dominated by youth, make Indonesians accustomed to transacting digitally. On the other hand, the emergence of these start-up companies will have a positive impact on economic progress, namely in natural resource development, research and development and unicorn development infrastructure.

The form of implementation of the financial management system in the establishment of start-up companies categorized as Unicorn

Management is an activity related to various sectors in human life. The word management comes from Italian which is taken from the Latin word "manos" which means hand, the word management means in the dictionary.:

a. To direct and control
b. To treat with care
c. To carry of business or affair
d. To achieve one's purpose

Financial management is a business or leadership activity in processing financial affairs, using management functions, and mobilizing financial officers. The financial management cycle, like other management, generally consists of several aspects, namely planning, implementing, evaluating, evaluating, monitoring and planning the next. The thing that is handled in this case is the budget, so financial management is also called budget management. According to Dewi Utari (2014: 1), financial management is planning, organizing, implementing, and controlling fundraising at the lowest possible cost and using it effectively and efficiently for organizational operations. Meanwhile, Agus Sartono (2015: 6), Financial Management can be defined as good fund management related to the allocation of funds in various forms of investment effectively as well as efforts to

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collect for investment financing or efficient learning. From the theory stated above, financial management is a business activity in terms of financial management or funds that are intended to launch all activities in order to achieve its objectives.

The main task of financial management is to make decisions that include the company in obtaining funds and also how to allocate these funds. Therefore, it can be seen that in terms of company management it is inseparable from the existence of particularly policy decisions on investment in companies in the form of land, buildings, tools, or financial assets in the form of securities such as bonds and stocks. In addition, there is also an effect in managing the company's assets efficiently to achieve the goals of a company. Especially in any start-up company other than what is mentioned above, it cannot be separated from the existence of financial management which involves activities from the planning, analysis and control stages to maintain the company's operational sustainability. By implementing this, the start-up company can maximize company value which has an effect on the prosperity of shareholders as measured by the company's share price.

As for the management of its financial system, start-up companies must implement corporate management functions, according to Martono and Harjito (2008) there are 3 main functions in financial management, including as follows:

a. Investation Decision

   Investment decisions are decisions on what assets will be managed by the company. The investment decision is the most important decision because this investment decision has a direct effect on the amount of investment return and the company's cash flow for the future.

b. Funding Decisions

   The funding decision concerns the sources of funds that are on the asset side. There are several things regarding funding decisions, namely decisions about determining the source of funds needed to finance investment, and

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determining the best balance of spending or often called the optimum capital structure.

c. Asset Management Decisions

When assets have been acquired with appropriate funding, they require efficient management. The financial manager along with other managers in the company are responsible for various levels of existing assets. This responsibility requires financial managers to pay more attention to the management of current assets rather than fixed assets. A conservative financial manager will allocate funds according to the term of the asset being funded.

With these three things, of course in a start-up company it is inseparable from the transfer or investment into a company, especially in the form of shares. There are two types of shares that are traded on the stock exchange, namely common stock and preferred stock (Anoraga 2006: 54). Common stock is a stock that places its owner in the most junior position in the distribution of dividends and the rights to the company's assets if the company is liquidated. Whereas preferred stock is a stock that has a combination of characteristics between bonds and common stock, because it can generate a fixed income, but also may not produce the results investors want (Darmadji, 2006: 7).

In start-up companies, there is a purchase of shares owned not only by domestic investors but also foreign investors. Especially in terms of the distribution of shares in start-up companies, it is different compared to companies in general. Companies in general who want to make purchases or own shares in the company must be regulated in the Articles of Association which take into account the Limited Liability Company Law. Especially in the transfer of rights over shares in a public company, basically there is no need to make an offer beforehand to other shareholders. However, the transfer of rights over shares in a Public Company must obtain prior approval / permit from the competent authority. This is as regulated by

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the laws and regulations in the Capital Market sector, including the Capital Market Law and the BAPEPAM-LK Regulations as the implementer of the said Capital Market Law.

Referring to the Decree of the Chairman of the Capital Market Supervisory Agency Number KEP-13 / PM / 1997 concerning the Principles of Articles of Association of Companies Conducting Public Offering of Equity Securities and Public Companies ("Decree of the Chairman of Bapepam No. Kep-13 / PM / 1997"), explains that every transfer of rights over shares must comply with the provisions listed in number 11 Attachment to the Decree of the Chairman of Bapepam No. Kep-13 / PM / 1997, which states:

a. The transfer of rights over shares must be proven by a document signed by or on behalf of the party transferring rights, including by or on behalf of the party receiving the transfer of rights over the shares concerned. The document of transfer of rights over shares must be in the form as determined or approved by the Board of Directors.
b. The forms and procedures for the transfer of rights over shares traded in the Capital Market must comply with the statutory regulations in the Capital Market sector.
c. The transfer of rights over shares included in Collective Custody is carried out by book-entry from one Securities account to another at the Depository and Settlement Institution, Custodian Bank, and Securities Company.

Acquisition of shares can be done by offering a public offering during the primary market and buying shares that are already circulating in the secondary market. While start-up companies are companies based on technology, so that in calculating the number of shares, several factors are taken into account. Not only considering the amount of capital, but also other components such as working time, ideas, loyalty, and application coding.

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In fact, each component has its own share, therefore the application of this system will provide a fair calculation in the distribution of its shares. For example, if there is a start-up company founder who has a minimal contribution, this will also be followed by lower share ownership compared to other founders who can develop the start-up company by involving foreign investors. Examples of cases that occurred at PT. X (the initial company) which is a P2P Lending service provider company and succeeded in funding thousands of micro, small and medium enterprises (MSMEs) in Indonesia, where the company took the initiative to open a tap of funding from investors, which was carried out by PT. Y (initial company) which has purchased 10% shares. This injection of funds from PT.Y then made the percentage of other share ownership shrink. However, at the same time, the large valuation value increases the share value of each shareholder. The value and percentage of these shares will continue to change along with changes in the start-up. Moreover, when the company obtains large funding and transforms into a unicorn. This has implications for the distribution of profits or voting rights in the General Meeting of Shareholders (GMS).

To accelerate national economic development in accordance with the provisions of Law 25 of 2007 concerning Investment, it is necessary to increase investment to transform economic potential into real economic strength by using capital both from within the country and from abroad. However, in facing global economic changes, it is necessary to create an investment climate that is conducive, promotive, provides legal certainty, justice and efficiency while still taking into account the interests of the national economy. If you look at several cases that have occurred in start-up companies such as companies that require capital injection from foreign investors in an effort to develop their business so that they are not easily shifted by other companies. For example, for a company PT.G (company initials) which operates in the transportation sector, more than 50% of the shares are owned by foreigners, so we can project that only a few percent of the shares are owned by

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the company founder. In accordance with Article 88 Paragraph (1) of the Limited Liability Company Law which states that, a GMS to amend the articles of association can be held if at the meeting at least 2/3 (two thirds) of the total shares with voting rights are present or represented in the GMS and the decision is valid if it is approved by at least 2/3 (two thirds) of the number of votes cast, unless the articles of association determine the quorum of attendance and / or provisions regarding the decision making of a larger GMS. This means that decision making in a company is determined in principle by the largest shareholder, so that what happens in PT. G is controlled or determined by a foreign party. This is also seen in the start-up company engaged in e-commerce, PT. B (Company's initial) whose capital was also injected by foreign parties, one of which was PT. E (initial foreign company) as the majority shareholder since October 2019 with a valuation of US $ 2.5 billion or more than 35 trillion.

In terms of the implementation of the financial management system in the establishment of a start-up company, it is inseparable from financial management which must maximize company profits by selecting something that does not benefit the company and negatively affects the company in the long term. One of the efforts that must be done is to maintain financial cash flow so that expenses are not too inflated compared to their inputs. In addition, start-up companies apply the principle of openness to corporate financial activities as a basis for maintaining corporate financial stability as well as applying the principle of corporate financial accountability. This is the key in managing the company's financial management system to maintain the existence of the stat-up company.

The right form of government formulation to increase Indonesia's foreign exchange and taxes on start-up companies categorized as unicorns

The Indonesian state is experiencing developments in various fields both in the economic, social and infrastructure sectors as well as in the fields of transportation and technology. For this reason, in the sustainability of national

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development, the government needs a source of funds to make it happen, one of which is tax collection. PJA Andriani in Tjendraputra, Haiwei (2014: 11) defines that Taxes are public contributions to the State (which can be enforced) owed by those who are obliged to pay them according to general regulations (laws) without getting back achievement which can be directly addressed and the point of which is to finance general expenses related to the task of the State to organize the government. As for the meaning according to the Law as stated in Article 1 number 1 of Law No. 6 of 1983 as recently revised by Law No. 28 of 2007 concerning General Provisions and Tax Procedures or referred to as the Taxation Law is "compulsory contribution to the State which is owed by individuals or entities that are compelling under the Law, without receiving direct reciprocity and used for the state's needs for the greatest prosperity of the people."

Apart from being a human being, legal entities are also subject to tax, so that legal entities in the form of Limited Liability Companies are also obliged to pay taxes. Taxes can be seen from several different sides and there are interests between taxpayers and the government. This difference in interests creates the wrong perception that in tax collection, the tax officials or the tax authorities will try to impose the maximum tax. Meanwhile, taxpayers will try to pay the smallest tax (Bardjo Sugeng, 2011). This often occurs in several companies in planning their taxes to pay taxes as little as possible so that it will not affect the wealth owned by the company. Therefore, according to Article 1 paragraph 5 of the Taxation Law, entrepreneurs are obliged to report their ownership of assets for state purposes. Therefore, this start-up company must also make regular tax payments in accordance with tax regulations. This is reinforced by his statement by Dr. Budi Agus Riswandi, SH, MH at the Faculty of Law UII gave a statement that regarding start-up companies it is the company's obligation, but it can be said that in its implementation it has not been carried out optimally due to 2 big things, namely the matter of regulations that are considered incapable of effective in reaching all actors

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in transactions and secondly, the existence of technological limitations in reaching financial data of business actors. However, in actual fact, Indonesian business actors have the opportunity to be able to contribute to Indonesian taxation in order to increase foreign exchange. If in this case it is not implemented then in accordance with the provisions in Article 39 paragraph (1) letter i of the Taxation Law in terms of not remitting taxes to the State, it means that it will cause a loss to state income and can be punished for at least 6 months and a maximum of 2 years and a fine. at least 2 times the amount of unpaid or underpaid taxes and a maximum of 4 times the amount of unpaid or underpaid taxes.

Start-up companies where there is influence of foreign investors, then this company must register and is obliged to pay taxes, but it appears that in reality there are many companies that manipulate tax data. Therefore, according to him, the government in this case must carry out optimal supervision of companies in terms of reporting their taxes. In addition, the government also becomes a reference in evaluating existing regulations regarding tax planning by companies so that with the evaluation stage strategic and quality steps can be taken to implement tax planning in order to provide positive benefits in the future.

Tax deregulation in the e-commerce sector will provide compliance for business actors to pay taxes

Every formation of laws and regulations must have clear objectives to be achieved as well as effective and effective. This is in accordance with the principle of establishing statutory regulations as stipulated in Article 5 (letter a and letter e) of Law Number 12 of 2011. In its implementation practice, the operationalization of taxation policies still faces many problems.

The main problem in tax regulation is the inconsistency in the perspective of tax policy makers regarding Indonesian constitutionality, which is reflected in the presence of regulatory conflicts. Regulation should be viewed from a holistic perspective (along with other related regulations) but that did not happen. Policy

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makers usually look at one problem without considering other circumstances and then the results are very burdensome to society in general. For example, the formulation of tax policies that are oriented towards an increase in favourable taxes, does not consider other policies that can also harm the community, for example an increase in land and building tax revenues will only promote poverty if they are not considered carefully in relation to the implementing laws and regulations. In connection with this, it is necessary to have restrictions on foreign investors in investing their shares in start-up companies, but this is very difficult to do so that what the government has to do is that the government as a regulator is able to create regulations that can increase domestic investors without being influenced by foreign investors. This makes the start-up company still have to pay taxes according to the tax provisions. On the other hand, it turns out that the presence of foreign investors is able to contribute to the improvement of the national economy, for example, creating fields, alleviating poverty, increasing state income.

In general, the objective of taxation policies and regulations is to increase state revenue from the tax sector, which has been seen as a source of state revenue for the sake of the implementation of national development in order to increase the prosperity and welfare of the people. However, the formulation of objectives in several tax regulations is carried out in such a way that it is unclear and not easy to understand. The implementation of national development has resulted in rapid developments in national life, especially in the economic sector, including the development of forms and practices for conducting business activities that have not been accommodated in the current Taxation Law and in an effort to always maintain economic development as stated in the above can continue to run in accordance with development policies that are based on the Development Trilogy as mandated in the Guidelines of State Policy. Along with that, legal certainty can be created with regard to taxation aspects for the forms and practices of conducting business activities that continue to develop. Adequate adjustment steps are needed to the

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various existing tax laws. For this reason, if we can predict the impact of policies / regulations on various parties, then we can provide an overview of the possibilities that occur with the enactment of a policy / regulation and in time it will be very beneficial for certain parties to respond to it.

Particularly in this case is by optimizing the handling and supervision in the field of taxation by means of tax intensification aimed at providing compliance with companies or business actors in paying taxes. Especially in terms of activities that use technology or e-commerce, this is a huge potential in transactions in the trading system, so it is necessary to have simultaneous activities for every money company to conduct e-commerce transactions. In addition, there is also a need for action to extract data, through internal data that is owned by the DGT in accordance with the base of the taxation area and through data search activities of e-commerce players with data from the internet.

The problem that occurs in the world of taxation in Indonesia is the compliance and awareness of taxpayers. In this case, online business taxpayers still have low awareness of their tax obligations. For example, for the fulfilment of tax reporting in terms of filling out Annual Tax Returns, Periodic Tax Returns, and other tax law products. For this reason, it is necessary to have a special regulation governing the taxation system on electronic transactions as an effort to prevent irregularities by taxpayers, if this is not immediately realized then several other aspects will also be constrained. Therefore, proper regulations are needed for handling taxation in the e-commerce sector.

CONCLUSIONS

Indonesia is one of the countries with the highest e-commerce growth which continues to grow every year, in 2013 internet users were recorded at 72.8 million and in 2016 it became 102.8 million, in 2019 there were 130 million people. Launching data from IlmuOne Data, there are 10 best e-commerce business players in Indonesia compiled in comScore data covering around 67 million digital

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populations, namely Lazada Indonesia, Matahari Mall, Blibli, Zalora Indonesia, JD Indonesia, Tokopedia, Elevania, Shopee, Bukalapak, Qoo10. Investment realization data from the Investment Coordinating Board (BKPM), Domestic Investment (PMDN) and Foreign Investment (PMA) per January-March 2018 period reached IDR 185.3 trillion, an increase of 11.8% from the previous period. same in 2017 amounting to IDR 165.8 trillion. In connection with the transformation of start-up companies, especially in the Unicorn category, this is inseparable from the need for investors as funders to be able to survive and continue to grow. Company investors in start-up companies come as a whole from domestic investors and some even use foreign investors to intervene. In Article 5 paragraph (2) the Company Law states that foreign investment in Indonesia must be in the form of a Limited Liability Company (PT) based on Indonesian law and the government in this case is not allowed to grant “special rights” to treatment of a country. Therefore, start-up companies, both foreign and domestic, must pay in accordance with the provisions in force in the State of Indonesia, which has been stipulated through Regulation of the Minister of Finance (PMK) Number 48 / PMK.03 / 2020 concerning Procedures for Appointment, Voting, and Deposit and Reporting of Value Added Tax on Utilization of Intangible Taxable Goods and / or Taxable Services from Outside the Customs Area within the Customs Area through Trade through Electronic Systems. So that the application of these taxes has manifested in terms of increasing state profits through tax collection. In addition, in this case, it has emphasized the obligations of investors to pay taxes so that the principles of sound corporate governance can be realized, respect for the cultural traditions of the community, and carry out corporate social responsibility. Therefore, to bring foreign investors into start-up companies, it is necessary to have regional regulations, decision to determine, and even laws that contribute to distorting investment activities, not the other way around protecting and facilitating foreign investors entering start-up companies in Indonesia.

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