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Cross-Border E-Commerce TAX: Comparison Of 5 Countries Asean

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Abstract: This study aims to determine the e-commerce tax regulations of five ASEAN countries (Indonesia, Singapore, Philippines, Thailand and Malaysia). This qualitative research uses secondary data from the official website of the tax authorities of each country with a tax regulation review approach to determine unilateral measures. The findings show that unilateral actions taken by Indonesia, Singapore, the Philippines, Thailand, and Malaysia in cross-border e-commerce taxes are quite diverse. However, unilateral measures have weaknesses, namely the emergence of potential disharmony in the tax system between countries, which can have implications for the emergence of double taxation problems and possible trade wars and ultimately affect the effectiveness of tax collection. The originality of this research is a comparative study of the top five countries in ASEAN regarding e-commerce tax during the Covid-19 pandemic and unilateral measures efforts of the country as a large market share of cross-border retail businesses in Southeast Asia that need to be studied for tax authority policy-making and provide information for e-commerce related to the selection of appropriate business forms to be able to streamline taxes.

Keywords: Cross border, E-commerce Tax, Comparison, Global Consensus

INTRODUCTION

The Covid-19 pandemic has materially accelerated the shift towards online lifestyles. The ASEAN e-commerce market has great growth potential as more industry players enter the space to provide more product variety, and consumers accept the convenience of online shopping. [1] Meanwhile, electronic commerce transactions in 2021 are estimated to reach IDR 354.3 trillion, an increase of 33.11 percent compared to the transaction value 2020 of IDR 266.2 trillion. Transaction volume is also predicted to increase 38.17 percent from 925 million transactions in 2020 to 1.3 billion in 2021. In e-commerce, businesses can sell on marketplaces or develop websites for online sales [1]. In the battle of two options, marketplaces are a great starting point for e-commerce beginners and small business sellers [2]–[4]. Sellers can take advantage of the brand recognition and ease of setup the marketplace has built-in online selling. ASEAN consumers are familiar with regional players such as Lazada and Shopee, and these platforms can attract more traffic compared to independent e-commerce websites.

Sellers can quickly set up a storefront in the marketplace and enjoy the benefits of payment processing, marketing and advertising, and even warehousing and shipping support to source and organize these services themselves [5], [6]. In addition[5], the marketplace offers translation services useful when reaching consumers in ASEAN, a region with linguistically diverse areas with different official languages such as Thai, Vietnamese, and Indonesian. Translating product descriptions into local languages effectively in market communication and offerings is important. However, it is equally important to understand the costs involved when doing business in the marketplace [8], [9]. Commission fees are usually charged for successful transactions or orders completed on the platform. For example, Shopee charges a 2% commission for sellers with more than 100 completed orders since they joined, whereas Lazada charges a certain percentage based on product category, ranging from 3% to 5%. Other fees, such as transaction and withdrawal, may also apply.

Looking to help Hong Kong SMEs enter the ASEAN market, Shopee set up an office in the city last year. The company has a presence in six ASEAN countries: Thailand, Vietnam, Singapore, Malaysia, Indonesia, and the Philippines. After receiving the customer's order, the seller only needs to ship the product to Shopee’s warehouse in Hong Kong. Shopee will assist the merchant with the remaining procedures, including customs, logistics, and last-mile delivery [10]–[12]. For the ASEAN e-commerce market to be more effective, it would be useful to familiarize yourself with each country’s rules and regulations, such as import duties and taxes, along with their de minimis value [12]–[14]. De minimis value refers to a threshold value at which less or no tax is charged on shipping [[15], [16]. The threshold depends on the total value of the goods shipped, including the product's weight, shipping costs, and insurance costs. According to [16] [17], for cross-border e-commerce businesses, a higher threshold is beneficial because it means there is greater leeway for tax and customs exemptions when selling abroad.

Among ASEAN countries, Singapore is an attractive e-commerce market with high de minimis rates of SGD 400 (about US$300) and minimal import duties and taxes. For shipment values above SGD 400, businesses must pay a goods and services tax (GST) of 7%, while no import duties are levied except for restricted goods, such as liquor and tobacco products. In comparison, Indonesia has the lowest threshold of US$3 per shipment for all imported goods shipped under B2C [18], which was largely revised down from US$75 in early 2020. Goods exceeding US$3 are subject to duties and taxes based on different Product Categories.

Table 1. Payments Preferences

	Indonesia	**Singapura**	**Malaysia**	**Thailand**	**Philipines**
De minimis value	USD 3	SGD 400	MYR 500	THB 1.500	PHP 10.000
Below DMV**	VAT:10%	Tax:0%	Tax:0%	Tax:0%	Tax:0%
Above DMV	Total duties and Tax: Bags:56-60% Shoes:70-75% Garment:65% Others:20%	GST*:7% Import Duties:0%	VAT:5-10% Import Duties:0-25%	VAT:7% Import Duties:3-30%	VAT:12% Import Duties:0-20%
Total tax	Up to 75%	Up to 7%	Up to 35%	Up to 37%	Up to 32%

Noted:*GST (goods and services tax), **DMV (De minimis value)

This development triggers digital market competition in the fight for consumers in the ASEAN region. So many conveniences are offered online shopping to attract buyers and lead consumer patterns/lifestyles to switch to the digital market. The comfort provided, such as time efficiency for shopping, saving transportation costs for shopping, as well as many promotions such as free shipping, cashback, and others, are certainly the main attraction, especially for millennials who have been attached to the digital lifestyle, [19], [20].

For cross-border e-commerce or e-commerce originating from abroad, developments in ASEAN are an opportunity to develop their business. Moreover, it is supported by social media, which is often used to introduce products from abroad [21]–[23]. Social media makes marketing foreign products easier without having to set up shop. For the community, e-commerce across borders becomes a bridge to enjoy foreign products without coming directly to the country. The rapid growth of e-commerce led foreign investors to invest in the sector. As quoted from the Head of the Investment Coordinating Board (BKPM), annually, *Foreign Direct Investment* (FDI) reaches US $ 9 billion US $ 12 billion, and it is estimated that 15-20% of the investment is investment in the digital sector [2], [24], [25]. This percentage proves that digital businesses are growing rapidly, absorbing and dominating a country's foreign investment.

The efficiency of foreign capital absorption will positively impact the country by increasing employment, reducing unemployment, and increasing state revenue from the tax and non-tax sectors that can support development [21]. The increasing number of foreign investments in the digital industry is also based on several things, including the increase in the ranking in *the Ease of Doing Business* (EoDB) released by the World Bank in 2019. [27]This is inseparable from the clarity of regulations, effectiveness, and efficiency of implementing rules and permits in ASEAN countries. Given the competition with other investment destination countries, the increase in foreign capital in the digital business sector must be a priority for regulators. In 2019, investment in the digital industry reached US$ 4.7 billion (BPKM 2017). This is evidenced by the entry of four *start-up companies* with unicorn status (having a value above US $ 1 billion) in Southeast Asia.

According to [12], [26]–[28], one of the priority regulations is the tax obligation for the digital business sector, which is worked on in such a way as to avoid tax avoidance. The main objective of implementing all tax obligations is to increase central and local government revenues,[29]. The development of the digital business sector has contributed to the increase in FDI in ASEAN-up countries. It directly affects the rise in tax revenues the state receives because there is no difference in tax obligations imposed between the digital business sector and others. Therefore, digital companies need proper tax planning to optimize company profits. Tax planning in terms of digital business forms is needed so that every company decision is in line with the intentions of regulators/governments. As reported by the kompas.com page, Amazon, the world's giant retail company, does not pay federal income tax. Of the total reported profit of 8.2 billion US dollars but only effectively paid 11.4 percent tax [6], [20]. This proves that tax planning in the form of a digital company business is very important. In practice, the company will minimize the tax paid to achieve maximum profit [32].

Therefore, company management will pay more attention to tax planning. Tax planning prepared by management will reduce the tax burden to be paid by the company. In the digital business era, profit is important because of the fierce competition between startups *t*o maintain business continuity. Reflecting on the absence of differences in taxation imposed on digital businesses, companies still have to comply and be in line with regulations made by the government; therefore, the analysis was carried out on cross-border e-commerce that is expanding in ASEAN countries. The analysis unit is a digital company that sells its products to business startups in Singapore, Indonesia, the Philippines, Malaysia and Thailand.

Cases of taxation in digital businesses often reap polemics in various countries. For example, Google, Amazon, Facebook and other digital companies are targeted by Fiscus in multiple countries. These digital companies set up headquarters in countries with low tax rates and operate digitally in other countries. Profits earned from other countries, such as advertising, are not taxed in that country. [33] researched harmonising indirect taxes on consumption in ASEAN member countries. One of the criteria in the analysis of harmonization of tax rules is the structure of the regulations that apply in each country. The design of tax rules generally regulates the object of tax and the tax rate.

Therefore, the government continuously conducts investigations on evidence of digital transactions to collect taxes under commerce. The role of e-commerce in the ASEAN economy is increasing. It was recorded that the contribution of PMSE (trade through electronic systems) reached 7 percent of ASEAN's total GDP. The growth of e-commerce grew to US$200 billion in 2020, and from 2015 to 2019, it has grown 7-fold from US$5.5 billion to US$38 billion. The government seeks to utilize international trade, especially related to e-commerce, through cooperation with ASEAN countries to meet the community's needs. The agreement also comes as an answer to the challenges of the digital economy and can facilitate increased collaboration in ASEAN PMSE transactions. The ASEAN Agreement on E-Commerce has 19 markets governing cross-border e-commerce facilities, cybersecurity, electronic payments, logistics, transparency, and dispute resolution [8], [10]. Based on this phenomenon, this research problem/question was formulated to determine: How is the practice of cross-border tax e-commerce in ASEAN countries compared?

According to [34], case study research can be useful in understanding phenomena, evaluating conditions, and planning decision-making on the problems faced. This research is expected to provide an overview of taxes imposed on cross-border e-commerce in Singapore, Indonesia, the Philippines, Malaysia and Thailand for investment decision-making in these countries. This research is also expected to provide information for tax authorities related to cross-border e-commerce taxation and information for e-commerce related to the selection of appropriate business forms to streamline taxes. This research is limited to discussing the implementation of tariffs on cross-border e-commerce transactions from 5 Southeast Asian countries categorized in ASEAN, where the market share of business startups in the five countries is very potential. Digital business tax for cross-border e-commerce with B2C (Business to Consumer) business types, not on all types of e-commerce, and limited to P3B (Double Taxation Avoidance Agreement) ASEAN countries.

METHOD

This study uses a comparative analysis approach to support observations from the e-commerce cross-border tax process in ASEAN countries. Comparative studies are described with existing literature studies to find this research object's advantages and disadvantages. Comparative studies are also used by researchers with quantitative methodology. But judging from the principles and objectives of the analysis, the results outline the same benefits, namely finding added values and shortcomings of the research objects they are observing.

Some contemporary studies research, in general, often uses this research methodology. [31] for example, used comparative study analysis to compare the application of tax rates and the burden of transportation of goods on land between Slovakia and several European Union member states. In addition, [33] [34] also conducted research using a comparative study approach. They researched public opinion related to tax avoidance ethics. Their research was conducted in the United States and six other Latin American countries. Meanwhile, this study discusses the e-commerce cross-border tax process with a comparative analysis of the e-commerce tax process implemented by Indonesia, Malaysia, Thailand, Singapore and the Philippines governments. The results of this study can be an input for the government to see added value that is expected to strengthen the government's decision in setting e-commerce tax policies and be useful for investors in considering their investment in e-commerce businesses in the ASEAN region.

RESULTS AND DISCUSSION

Costs and Efficiency

When engaging in cross-border electronic commerce, it is crucial to evaluate the time and costs incurred when moving goods from sellers into the hands of consumers. In ASEAN, logistics costs and efficiencies vary between member countries, mainly due to differences in transport infrastructure development and customs processes [10]. Table 2 below outlines the time and costs associated with the logistics process of ASEAN countries selected as importing countries. Singapore remains the most efficient among other countries in the region, with the shortest time to border and paperwork compliance and the lowest associated costs. Businesses selling to ASEAN should pay attention to the time and expenses required in each country when complying with document requirements, customs and inspection procedures.

Table 2. Logistics Cost and Efficiency

	Singapore	Malaysia	Thailand	Philippines	Indonesia
Time to import (hours)	33	36	50	120	80
Cost to import (USD)	220	213	233	690	384
Time to import (hours)	3	7	4	96	106
Cost to import (USD)	40	60	43	68	160
Time to import (hours)	36	43	54	216	186
Cost to import (USD)	260	273	276	758	544

Source: World Bank's Ease of Doing Business 2020

Last-mile delivery remains a major obstacle in some ASEAN countries with less developed logistics infrastructure, such as Indonesia. The country's unique archipelago of 17,000 islands makes it more challenging for electronics retailers to operate across the country, as goods cannot be transported by land alone. A multi-model system, using both land and sea transportation and warehouses, is required to reach remote areas, resulting in high logistics costs. Indonesia's underdeveloped address system with inaccurate maps and unclear door/house numbers also often causes delays in delivery or delivery of goods to the wrong address.

Indeed, a survey conducted by Parcel Platform and iPrice Group in 2019 found that around one in three consumers in the region were unhappy with delivery services for their online purchases. Most complaints are related to late deliveries, transit times that do not match expectations, and poor customer service from logistics operators. ASEAN consumers are becoming increasingly demanding about the post-purchase delivery process. Online shopping experience be better, businesses should look for marketplaces or logistics carriers that can provide greater transparency about the status of shipments and engage in more proactive communication and updates while packages are in transit.

Store-Based Retail Sales Growth

Retail sales were based on offline stores and remained weak over the past year in key ASEAN consumer markets. Retail sales in Singapore and Indonesia fell by the most by around 18%, mainly due to nearly two months of circuit breaker measures adopted in the archipelago nation and the lockdown of entire cities in Indonesia to stop the outbreak's spread. In comparison, Malaysia's effective control of the pandemic has led to its better performance in retail sales among regional stores, falling by just under 9.6% in 2020.

However, as the pandemic progressed, it accelerated the digital transition and the expansion of e-commerce. Consumers are given access to a significant range of products from the comfort and safety of their homes, while retailers are scrambling to upgrade their online channels to minimize the impact of social distancing measures or contact restrictions. There has been a dramatic uptake of digital technology in Southeast Asia's major economies[1], with 40 million people coming online for the first time in 2020 alone, bringing the total number of internet users to 400 million, up from 250 million in 2015[2]. More than three in five people in this economy are now online, and since the pandemic began, they have spent more time on the internet. Time

1 Survey conducted by Parcel Platform and iPrice Group in 2020

2 Digital 2021 report

spent online daily increased by an average of one hour across ASEAN countries, with the highest spike in the Philippines, where consumers spend more than five hours online.

E-commerce usage has also surged since the pandemic's start, with the strongest uptake in Indonesia, followed by the Philippines and Malaysia[3]. As consumers increasingly embrace the benefits of security and convenience through e-commerce, the shift to online shopping is expected to remain post-pandemic. Interestingly, many ASEAN countries have seen stronger e-commerce adoption among internet users than the world average, as well as many mature markets. Indonesia was found to have the highest e-commerce adoption in the world last year, with 87% of its internet users buying online via electronic devices, followed by the UK (86%), Thailand (84%) and Malaysia (83%). Adoption in other ASEAN countries, such as the Philippines, Singapore and Vietnam, has surpassed mainland China, considered one of the world's largest e-commerce markets.

The ASEAN e-commerce market is fragmented, with several regional players and many local B2C platforms. Lazada and Shopee are two major online platforms operating in major ASEAN countries, including Indonesia, Vietnam, Thailand, Singapore, Malaysia, and the Philippines. While these two leading e-commerce players are taking a regional approach, many local B2C platforms exist in each ASEAN country. For example, Tokopedia and Bukalapak are popular in Indonesia, while Sendo is very popular with Vietnamese consumers.

Consumer electronics and apparel are the top product categories purchased online by Southeast Asian consumers, accounting for more than half of the gross merchandise value (GMV) of e-commerce in 2020. Meanwhile, "household economics" has disrupted food purchases and consumption habits, forcing many consumers to cook or eat at home and experimenting with ordering food and groceries online. E-commerce's GMV share for food and groceries jumped from 4% in 2015 to 11% last year, with more than two in five new ASEAN consumers buying groceries online[4]. A snapshot of the major e-commerce players in ASEAN can be seen in Table 3 below:

Table 3. Top 10 major start-up business players in ASEAN

Rank	Indonesia	Singapura	Thailand	Philipines	Malaysia
1	Tokopedia	Lazada	Lazada	Lazada	Shopee
2	Shopee	Qoo10	Shopee	Shopee	Lazada
3	Bukalapak	Carousell	JIB	Zalora	Lelong.my
4	Lazada	Shopee	Chilindo	Carousell	Carousell
5	Blibli	EZbuy	Advice	eBay	Zalora
6	Orami	Ebay	Power Buy	Globe Online Shop	11street
7	JD.id	Zalora	JD Central	Metrodeal	Go Shop
8	Bhinneka	FairPrice On	Se-ed	BeautyMNL	eBay
9	Sociolla	Courts	Central	Argomall	Hermo
10	Zalora	Sephora	HomePro	Galleon.ph	Qoo10

Source: iPrice Group in 2020

If you see the considerable potential of the digital economy, then, of course, e-commerce has significant potential in tax revenue. But today, Indonesia, Singapore, the Philippines, Thailand and Malaysia face the same problem: how to tax e-commerce effectively given the diverse and constantly changing e-commerce business models. On the other hand, there is a need for tax regulations that provide the same level playing field between e-commerce business models and conventional business models.

3 iKala, The Rise of Social Commerce in Southeast Asia (2020)

4 Google, Temasek and Bain & Company, *e-Conomy SEA 2020 report*

The issue of the same level playing field also arises among e-commerce business actors, namely between local e-commerce and foreign e-commerce. Local e-commerce is relatively easier to tax by tax authorities because it is still within the jurisdiction of a country. While cross-border transactions are rather difficult to tax for reasons other than because foreign e-commerce is under the jurisdiction of other countries, another reason is because of international laws such as tax treaties that limit a country's taxation rights.

The existence of significant tax potential and encouragement to provide equal treatment between cross-border and local e-commerce transactions is why several countries adopt unilateral measures, namely withholding tax (WHT), digital permanent establishment / PE and digital service tax (DST).

The approach taken is:

1. Imposing withholding tax (WHT) on payments to foreign e-commerce companies through cross-border transactions. Malaysia and Thailand take this approach.
2. Digital Permanent Establishment/PE or digital BUT. This approach makes regulations regarding the criteria for the existence of BUT, which are not based on physical presence but on new standards, namely significant economic or digital presence. The determination is based on the number of sales, the amount of traffic or the active use of digital media. Suppose a foreign e-commerce company earns income from a country and meets the criteria of significant economic or digital presence. In that case, the e-commerce company is considered to have a BUT in the source country so the government will impose an income tax. Indonesia, Singapore and the Philippines carry out this approach.
3. Digital service tax (DST) is a direct tax but not an income tax, so the tax treaty provisions do not cover it. Indonesia and Thailand use this approach.

The existing variations show that the unilateral measures taken by 5 ASEAN countries are quite diverse. Disharmony in tax policy can be seen in the different taxation approaches taken by each government, where some take WHT, PE and DST, even a combination. The disharmony of e-commerce tax policy between the 5 ASEAN countries will have implications for several issues, including:

1. Double taxation

   Arises when one income is taxed more than once from several countries. This condition can occur if start-up entrepreneurs make cross-border transactions. The income received by the business start-up will be taxed in the land of domicile where the entrepreneur is domiciled; at the same time, the payment will also be taxed in the source country, namely in the country where the income originated. Usually, in tax treaty rules, there are provisions to eliminate double taxation. However, when taxation rules in the source country use unilateral measures not covered by the domestic laws of the land of domicile or in the tax treaty, the double taxation elimination mechanism cannot be applied.
2. Trade wars

   Unilateral measures in e-commerce taxes have the potential to cause a trade war. An example is the case of the American and French trade wars. U.S. trade officials are proposing new tariffs of up to 100 percent on French imports. The proposed tariffs were triggered by reports of a new digital tax being treated by France on digital companies such as Google, Facebook and Amazon. The report states that digital taxes are one of the barriers to trade between the two countries. The same is also potential in 5 ASEAN countries. Under the investigation, the U.S. will examine several tax schemes in 10 jurisdictions. The United States considers that the imposition of the new tax is discriminatory because the companies targeted by the imposition of the tax are giant digital companies from the United States, such as Google, Facebook and Amazon.

3. Tax collection effectiveness
   The effectiveness of tax collection is strongly influenced by taxpayers' compliance in implementing tax rules and the ability of tax authorities to enforce the law. Usually, modern tax systems prioritize the principle of self-assessment, which gives confidence to taxpayers to calculate, deposit and report their tax obligations. However, if the taxpayer does not fulfil his tax obligations, the tax authority can enforce tax provisions through inspection and investigation; even if there is an unpaid tax debt, the tax authority can confiscate the taxpayer’s assets. Of course, in law enforcement against foreign start-up companies not in the country's jurisdiction, tax authorities are very limited, especially if the start-up or e-commerce company model does not have tangible assets. Thus, the effectiveness of foreign e-commerce tax collection will depend heavily on voluntary compliance.

During the increasing number of countries in the world that adopt unilateral measures, at the global level, a multilateral approach is taken to achieve tax system fairness globally to avoid tensions in trade cooperation between countries that can be triggered by unilateral actions such as the implementation of digital service tax (DST). Through the discussion of digital tax consensus that has been carried out under the coordination of the Organisation for Economic Co-operation and Development (OECD).

Discussions began in 2013 through a project to address base erosion and profit shifting (BEPS) through 15 action plans. BEPS is a tax planning strategy that takes advantage of gaps and weaknesses in the domestic tax system to eliminate these benefits to other countries with low tax rates, even tax-free. 133 OECD/G-20 Inclusive Framework member countries have agreed on proposals carried out as solutions to tax challenges due to economic digitalization, including Indonesia, Singapore, the Philippines, Thailand and Malaysia. One of the BEPS action plans regarding the difficulties due to economic digitalization in:

Pillar 1: Unified Approach of 20%-30% excess profit above 10% of the residual profit of multinational companies will be given to market jurisdictions under an allocation formula. The policy is mandatory for all members. The OECD encourages reallocating taxation rights on global digital corporate income to market jurisdictions so that revenue can still be taxed even if corporations do not have a physical presence in market jurisdictions. Include features to ensure dispute prevention and resolution to address double taxation risk. It also entails stopping and withdrawing unilateral measures, such as digital services tax (DST), avoiding adverse trade disputes.

Pillar 2: Global Anti-Base Erosion, which contains a 15% global minimum tax scheme, is a common *approach* (not mandatory). The plan is to impose a minimum global corporate tax rate to prevent the tax base from eroding due to base erosion and profit shifting (BEPS) practices. Providing minimum taxes for corporate profits puts the floor on tax competition. Governments worldwide agreed to allow additional taxes on overseas profits from MNEs headquartered in their jurisdictions at least to the agreed minimum pace. It means that tax competition will now be supported by a minimum level of taxation wherever MNEs operate. Through this action plan, there are efforts to reach a consensus on taxation rights and other challenges arising from the digitalization of the economy; the remaining elements of the framework, including the implementation plan, will be finalized in October 2021. Complete with an implementation plan to develop models of legislation, guidelines and multilateral agreements in 2022, with implementation from 2023.

CONCLUSION

The results showed that unilateral measures taken by Indonesia, Singapore, the Philippines, Thailand and Malaysia in cross-border e-commerce taxes were quite diverse. Unilateral measures are the right step as a short-term effort in collecting state revenue. However, unilateral measures have weaknesses, namely the emergence of potential disharmony in the tax system between countries, which can have implications for the emergence of double taxation problems and possible trade wars and ultimately affect the effectiveness of tax collection. Global digital tax consensus must continue to strive to improve the current tax treaty system and provide e-commerce taxes that are fair, efficient, legal, and acceptable to all parties.

The results of this study can be used as consideration in formulating policies for e-commerce taxes. Furthermore, quantitative analysis of the implications of cross-border tax e-commerce can be conducted through unilateral measures and global consensus.

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