INTISARI

TINJAUAN PROPORSIONALITAS TEGURAN DAN SANKSI PEMUTUSAN AKSES TERHADAP PENYELENGGARA PERDAGANGAN MELALUI SISTEM ELEKTRONIK

Oleh:

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Penulisan Hukum ini bertujuan untuk menganalisis proporsionalitas pengenaan teguran dan sanksi pemutusan akses terhadap Penyelenggara Perdagangan Melalui Sistem Elektronik berdasarkan tujuan pemajakan Pajak Pertambahan Nilai Penyelenggara Perdagangan Melalui Sistem Elektronik (PPN PMSE), yaitu untuk optimalisasi penerimaan negara dan menciptakan *level playing field* bagi pelaku usaha konvensional dan PMSE. Penulisan Hukum ini berjenis penelitian normatif dengan pendekatan undang-undang (*statute approach*) disertai perbandingan. Penulisan Hukum ini bersifat deskriptif dengan bahan penelitian yang terdiri dari data primer berupa wawancara dengan narasumber dan data sekunder berupa studi kepustakaan yang kemudian dianalisis dengan metode kualitatif.

Hasil dari Penulisan Hukum ini menunjukkan bahwa berdasarkan tujuan optimalisasi penerimaan negara dan menciptakan *level playing field*, sanksi teguran memenuhi seluruh elemen uji proporsionalitas (*suitability, necessity, dan proportionality stricto sensu*). Sebaliknya, sanksi pemutusan akses dinilai tidak proporsional karena gagal dalam *suitability test* dan *proportionality stricto sensu test*. Pemutusan akses justru bersifat destruktif karena melenyapkan potensi penerimaan PPN, memicu penggunaan VPN yang melanggar *destination principle*, serta merugikan pelaku usaha domestik yang bergantung pada *platform* digital. Untuk menerapkan sanksi yang lebih proporsional, dapat dirumuskan prosedur pendahuluan sebelum sanksi pemutusan akses dalam Peraturan Menteri Keuangan (PMK) sebagai peraturan turunan atau dilakukan kajian lebih lanjut mengenai optimalisasi kerja sama penagihan internasional melalui *Convention on Mutual Administrative Assistance in Tax Matters* sebagai alternatif sanksi yang lebih proporsional.

Kata Kunci: PPN PMSE, Proporsionalitas, Pemutusan Akses.

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ABSTRACT

A PROPORTIONALITY REVIEW OF WARNINGS AND ACCESS TERMINATION SANCTIONS FOR E-COMMERCE PLATFORM OPERATORS

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This legal research aims to analyze the proportionality of imposing written warnings and access termination sanctions on Electronic Commerce Service Providers based on the taxation objectives of Value Added Tax on Electronic Commerce, namely to optimize state revenue and create a level playing field for both conventional businesses and PPMSE. This research is a normative study employing a statute approach accompanied by comparative analysis. It is descriptive in nature, utilizing research materials consisting of primary data obtained through interviews and secondary data derived from literature reviews, which are subsequently analyzed using qualitative methods.

The results of this legal research indicate that, in view of the objectives of optimizing state revenue and establishing a level playing field, written warning sanctions satisfy all elements of the proportionality test (suitability, necessity, and proportionality stricto sensu). In contrast, the access termination sanction is deemed disproportionate as it fails the suitability and proportionality stricto sensu test. Access termination is found to be destructive because it eliminates VAT revenue potential, encourages the use of VPNs which violates the destination principle, and adversely affects domestic businesses that depend on digital platforms. To implement more proportional sanctions, preliminary procedures prior to access termination could be formulated within the Minister of Finance Regulation (PMK) as a derivative regulation. Alternatively, further studies should be conducted on optimizing international tax collection cooperation through the Convention on Mutual Administrative Assistance in Tax Matters as a more proportional sanction alternative.

Keywords: *Electronic Commerce Value Added Tax (VAT), Proportionality, Access Termination.*

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