Imposition of Tax Law on Cryptocurrencies and NFT in Indonesia

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<table>
<thead>
<tr>
<th>Article’s Information</th>
<th>Abstract</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>keywords:</strong></td>
<td><strong>Abstract</strong></td>
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<td>Taxes; cryptocurrencies; digital assets; NFT.</td>
<td>This research aims to look at the potential of government revenue through taxes on digital currencies or better known as cryptocurrencies and against digital assets called NFT. With normative research methods to analyze how cryptocurrencies and digital assets (NFT) should be taxed at low or high tax rates. In addition to understanding cryptocurrency taxation policies as well as NFT, the study also looked at the taxation policies of various countries on cryptocurrencies and digital assets. Each country has different guidelines and considerations for the legal status and policies of the regulation of cryptocurrencies and NFT. There is no consensus between countries about this.</td>
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A. Introduction

New things including technology in addition to bringing benefits not infrequently also carry counterversion. This also happens in digital technology until the creation of digital currencies and digital assets. The history of the birth of the product is the fruit of advances in information technology that do not require intermediaries in real time to provide information by cryptographically linked data blocks giving birth to a system called Blockchain (Arslanian & Fischer, 2019).

Blockchain has become one of the most popular and promising technologies in recent years. Following the birth of a new currency called Bitcoin, its popularity and value grew in an instant. Initially, Blockchain was only closely related to Bitcoin. But over time, blockchain technology has become a stand-alone solution that can be used for many other purposes, such as improving payment processes, storing data, and transactions at its core this new thing offers many advantages. Unlike other centralized systems, security remains a priority. Even when individual connections fail, it has no impact. The absence of intermediaries also contributes to data security. As we know all the problems today regarding data misuse are still illegal practices of third parties. Cases of credit card customer data traded is one of the cases that still often occur. While in blockchain, this is not the case (Kwak, 2019).
This is certainly accepted in some industries, and the financial industry is a major user of the *blockchain concept*. Cryptocurrency is by far the most well-known application on *blockchain*, one of the things that has boosted its popularity because financial statements differ from conventional systems. Where it must be subject to the rules and authorities of various institutions. In Bitcoin, blocks are created by so-called miners, who are rewarded with Bitcoin or other cryptocurrencies, such as Ethereum, which are responsible for the validation of the block (Omote & Yano, 2020). Miners use special computing devices (called excavators) to validate blocks. The whole process is often called "cryptocurrency mining." From this brief overview Bitcoin shows that blockchain principles can change the process of money transactions. The financial sector will soon be able to replace most of its operations with blockchain technology, which will greatly improve the payment process. Currently, credit card payments are completed in a few hours or even days. In a block chain, such delays are not required because payments can be made in real time through so-called general ledger adjustments (Ajao et al., 2019). Blockchain can revolutionize the entire traditional transaction process by automatically executing contracts in a cost-effective, transparent, and secure way (Reinhard, 2019).

Analysis of the literature shows that *blockchain* has other applications as well. For example, N. Szabo introduced the concept of "smart contracts" that connect computer protocols to the user interface to implement contract terms (Westerkamp, 2019). Thanks to blockchain systems, smart contracts are becoming increasingly popular as they can be made easier with blocks. According to the authors, such an innovative approach can eliminate the involvement of lawyers and banks in the settlement of property contracts. Smart contracts can also be applied to property management, both tangible and intangible (Jung, 2018). A good example of blockchain technology that handles smart contracts in the model presented above is Ethereum, a decentralized system originally proposed by Buterin (Tarkhanov, 2019). Ethereum can be seen as an extension of the Bitcoin blockchain that supports wider applications. According to Gunay, blockchain technology allows contracts to be made using encryption and without the involvement of third parties, such as notaries, who were previously required to build trust. Now, cryptography allows people around the world to trust each other and transfer various resources over a peer-to-peer network over the Internet (Gunay & Kaşkaloğlu, 2019). Georgia has become the first country in the world to rebuild its land registration with *blockchain*, getting rid of the old bureaucratic style (Wang et al., 2020).

NFT is an exchangeable token that mostly uses Ethereum blockchain technology to identify ownership of digital assets that can be music, videos, images, collections, or other digital files such as equipment or characters in games. Each token is proof of ownership of an asset, usually a digital asset, although they are marketed as proof of ownership of real-world assets as well. Ownership of NFT is evidenced by 'irreversible and cryptographically secured records on the blockchain' intended to be taken as evidence by others in the cryptosphere that a person is the owner of the underlying asset, which is similar to 'a digital certificate of title or stamp of authenticity' (Muthe et al., 2020).

These ownership records can be found on the blockchain, whereas the digital asset itself is stored on a 'separate, cryptographically secured server owned by the host platform'. In simpler terms, NFT is a tokenization of rights that may be derived from art, e.g. licensing for a particular combination. Having NFT means having rights summarized in NFT. Art collections and NFT appear to be the most popular NFT category, especially recently raised by someone who managed to rake in millions of dollars from selling his images on the NFT Gozali market and Ahmed helped make NFT digital assets more widely known (Penowo, 2022).
Research Methods
Presented in this study are normative descriptive legal research methods. Legal research is a study aimed at obtaining or discovering a coherent truth that is available or not yet the rule of law against an action. In this case the author tries to analyze how a digital product in this case cryptocurrency and digital assets against the obligations of tax rules. Given the specific legal regulations governing tax receipts on cryptocurrency transactions in Indonesia does not yet exist.

B. Discussion
This section is the most essential part of your Article. Analysis and Discussion must be described clearly and briefly. The result must sum findings (scientific) rather than providing data in details. Please keep in mind to highlight the differences between results or your findings with previous publication by other researchers.

Cryptocurrency refers to open source, mathematically based and peer-to-peer network currencies. There is no centralized management authority nor centralized control and oversight for this currency. In cryptocurrency, cryptographic principles are used to develop a secure information economy that can operate in a dispersed manner without being connected to a center (Busulwa & Evans, 2021). By some definitions, it is a virtual currency issuance system that provides virtual means of payment for goods and services without a reliable central authority and serves as the standard currency (Al-Rawy & Elci, 2018).

There is a legal deficiency in the definition and operation of cryptocurrencies, both at the international and national levels. The lack of regulatory rules for cryptocurrencies gives them an area where they can maintain their existence independently and creates the perception that they are autonomous structures independent of legal regulations. But this situation is temporary as both international organizations and related institutions in many countries continue to seek legal arrangements for these structures. There is some uncertainty in many aspects of legal cryptocurrencies in some countries and illegal in some others. Some countries have prepared the necessary legal and technological infrastructure for cryptocurrencies and their technologies while some countries are still searching.

The characteristics of cryptocurrencies and technological requirements create gaps in many areas in terms of the national economy. This gap leads to a number of challenges and opportunities. In terms of economic authorities and policymakers, the infrastructure provided by economic theory to fill this gap and make optimal choices is limited (Chiu & Koepl, 2017: 2).

It can be said that, on the basis of the search for legal regulations on cryptocurrencies, the idea of providing a sound reflection of the impact of this technological innovation on the national and international dimensions on social, political, economic, and financial life and preventing its misuse is very important because cryptocurrencies are a non-centralized system, whose existence is created by individuals or institutions that are outside the authority and control of the public and are part of the A system in which anyone who wants to participate, hides his identity, and moves money without obstacles and control. These characteristics provide an appropriate environment for the realization of various sensitive illegal activities for the international community such as money laundering from illegal activities, illegal trade, illegal gambling, tax evasion, and terrorism financing (Reinhard, 2019; Riehl & Ward, 2020).

Many economic activities carried out with cryptocurrencies can lead to a significant loss of income in terms of the national economy. The ecosystem created by cryptocurrency systems in their environment and various activities such as blockchain architecture accessible to users, mining etc. creates uncertainty in the establishment of legal infrastructure and regulations for tax purposes (Yano et al., 2020).
How to tax a new activity whose legal infrastructure cannot be established emerges as another matter. To address this problem, many countries have stepped up efforts to create their own digital money to replace cryptocurrencies. Cryptocurrencies contain opportunities and risks for developing countries.

In developing countries, the crypto coin market and transaction volume are different. India's crypto market had expanded earlier in 2012 and had a very small usage area, starting to grow rapidly due to the crypto coin exchange platforms that began to appear in the country. Even Indians are attracting a lot of their money to the digital currency, people are starting to turn to cryptocurrencies. So it is not surprising that Narendra Modi's government is implementing new rules imposing high taxes on cryptocurrencies up to NFT (Melani, 2022).

Many developing countries see cryptocurrency solutions to problems such as national currency declines and speculative attacks and as alternative trading opportunities. However, some developing countries are cautious about cryptocurrencies, and some countries even ban certain transactions. For example, China began banning certain transactions in the crypto coin market in 2017. South Korea and Thailand are conducting studies to take regulatory measures. According to Vietnamese law, taxes cannot be levied on income in cryptocurrencies because they cannot be considered assets. At the end of 2017, it was decided that cryptocurrencies were not legal means of payment there (Le et al., 2018).

If in Indonesia cryptocurrency legalization is contained in 1 Number 7 regulation of commodity futures trading regulatory agency No. 5 of 2019 on technical provisions for the implementation of the physical market of crypto assets on futures exchanges, it is carefully explained that crypto assets also include commodities where digital assets are connected to peer-to-peer networks and distributed ledgers.

And cryptocurrency is a form of Crypto Assets. Based on this explanation, it can be said that cryptocurrency is a system that is run with cryptographic technology so that it can carry out a secure data transmission process and the creation of digital currency exchanges. Simply put, cryptocurrency is a virtual currency system that has functions similar to normal currencies but is done for virtual business transactions as well. There are several kinds of cryptocurrency products, but Bitcoin is the first and most famous cryptocurrency product in the online market in addition to altcoins or alternatice coin products such as Ethereum, Ripple, and Litecoin. The network or payment system in cryptocurrency is a network in the form of peer-to-peer that is decentralized and fully controlled by the user and without 5 Regulations of the Commodity Futures Trading Supervisory Agency No. 5 of 2019. Indonesia is a potential market for cryptocurrency investment, so if the government makes the right regulations, then Indonesia will benefit greatly from the cultivation of the cryptocurrency.” When referring to tax regulations in Indonesia, cryptocurrencies included in crypto assets are not an item that cannot be subject to VAT as Article 4A Paragraph (2) of Law No. 42 of 2009 on VAT and PPnBM so it can be said that cryptocurrency is the object of VAT. On the other hand, cryptocurrencies are also classified as commodities in accordance with Article 2 of the Regulation of the Ministry of Trade of the Republic of Indonesia Number 99 of 2018 on the General Policy of The Implementation of Crypto Asset Futures Trading.10 So that capital gains from cryptocurrency transactions can be subject to Income Tax as stipulated in Article 17 Paragraph (1) letter a Law No. 36 of 2008 which reads as follows: The tax rate applied to Taxable Income for: Taxpayers of domestic personal persons are as follows:

<table>
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<th>Taxable Income Layer</th>
<th>Tax Rate</th>
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<td>up to Rp50,000,000.00 (fifty million rupiah)</td>
<td>5% (five percent)</td>
</tr>
<tr>
<td>above Rp50,000,000.00 (fifty million rupiah) up to Rp250,000,000.00 (two hundred and fifty million rupiah)</td>
<td>15% (fifteen percent)</td>
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The use of cryptocurrencies in Indonesia as one of the investment options becomes a potential in tax withdrawals. This is not only the user who continues to crawl up, the trading volume is increasingly swollen. Even based on data from the Commodity Futures Trading Supervisory Agency (Bappebti) of the Indonesian Ministry of Trade until December 31, 2021, investors who invested reached 10 million people with a trading volume of almost Rp 500 Trillion (Olavia, 2022).

The potential for tax withdrawals on digital currencies as well as digital assets can be seen from two sides. First from the sales side, here the potential for VAT obtained from companies that fall into the category of Taxable Entrepreneurs (PKP), secondly the potential PPh obtained by the capital gains obtained by cryptocurrency or NFT investors on margin from the selling rate and buying rate.

This difference can be taxed between the selling and buying rates which is an taxable gain. In this study, researchers gave a fulcrum on aspects of Income Tax withdrawal on cryptocurrency and NFT transactions in Indonesia. Where the Taxpayer is a tax subject who already has an obligation to fulfill his obligation to pay Income Tax on cryptocurrency transactions including NFT including the category of individuals. Then of course it is obliged to report it in the Annual Tax Return.

But the constraints of tax literacy are still an obstacle so that the public and users of currencies and digital assets or cryptocurrencies and NFT have not reported. This can certainly reduce Indonesia's state tax revenue from investments that use cryptocurrencies.

Problems with the rules and taxation of digital assets and digital currencies also seem to occur in other countries. It seems that each country's perspective on cryptocurrencies is still different. Some countries treat cryptocurrencies as barter transactions, others are treated as property. It is clear that there is no consensus of the cryptocurrency taxation framework among countries in the world.

Some countries we will review below the faithfulness of this report that the void of rules regarding taxes on digital products is not just the domain of developing countries such as Indonesia. Countries with economic stability are still learning about taxes, rules and legislation.

Most governments emphasize the high risk of cryptocurrencies. It is seen that the system has an unregulated transaction process and there is no legal avenue available to cryptocurrency investors in the event of a loss. Cryptocurrencies are also seen as a system for illegal activities, such as money laundering, terrorism, and tax evasion.

But recently some countries such as Australia, Canada, and Iceland have expanded their laws on the cryptocurrency market to reduce the losses of the cryptocurrency market. There is no consensus yet on the terms used by countries to refer to cryptocurrencies. Some terms for cryptocurrencies in some countries are presented in table 1.

<table>
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<tr>
<th>Country Name</th>
<th>Terms Used</th>
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<tr>
<td>Argentina, Thailand and Australia</td>
<td>digital currency</td>
</tr>
<tr>
<td>Canada, China, Taiwan</td>
<td>virtual commodities</td>
</tr>
<tr>
<td>German</td>
<td>crypto-token</td>
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Other than there is no consensus among countries on the legal status of cryptocurrencies, there is no consensus on how to tax cryptocurrencies. For example, some countries "absolutely ban cryptocurrencies, while some countries prohibit implicitly. In addition, there are some countries that do not have an overall or partial regulatory framework such as France, Finland, Belgium, Denmark, Mozambique, Namibia, South Africa.

Some countries such as Spain, Belarus, and Luxembourg actually see great potential in the technology behind cryptocurrency systems and they are developing regulations to attract investment in technology companies.

The issue of taxation is one of the most important things. The problem arises how to categorize cryptocurrencies for tax purposes. Many countries have categorized cryptocurrencies differently for tax purposes. For example Israel, Bulgaria, Switzerland tax cryptocurrencies as assets, financial assets, and foreign currencies. Argentina, Spain and Denmark are subject to cryptocurrencies as income tax. In addition to the company paying corporate taxes,

While in the UK profits generated in cryptocurrency investments are not subject to value added tax. Table 2. The following will be presented the status of taxation against cryptocurrencies in several countries.

Table 2. Taxation Status against Cryptocurrencies in Some Countries.

<table>
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<tr>
<th>Country</th>
<th>Taxation Status</th>
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<tr>
<td>United States</td>
<td>Cryptocurrencies do not have legal tender status in the U.S. In addition they are considered property for U.S. federal tax purposes. Whatever tax policy is applied to property transactions, the same tax principle applies to transactions using cryptocurrencies. If employees are paid wages in cryptocurrency, these wages are subject to federal income tax deductions and payroll taxes. If payments are made to independent contractors and other service providers in cryptocurrencies, these payments are subject to taxes and self-employment tax rules apply. If payments made using cryptocurrencies are subject to reporting</td>
</tr>
<tr>
<td>Rusia</td>
<td>Cryptocurrency transactions were banned in 2015, but withdrew them in early 2018 the Russian Ministry of Finance explained that they are working on legislation to regulate cryptocurrency transactions without completely banning them and through this law it is possible to tax cryptocurrency transactions to support the state budget.</td>
</tr>
<tr>
<td>Australia</td>
<td>In this country every cryptocurrency transaction should be recorded to determine its status against taxes. Have guidance on cryptocurrency taxation in 2014. According to the guidelines, cryptocurrency transactions are treated like barter transactions. If an individual sells or award cryptocurrencies, trades or exchanges cryptocurrencies (including the release of one cryptocurrency for another)</td>
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<tr>
<td>Canada</td>
<td>Cryptocurrency is defined as a digital currency or virtual money that can be used to buy and sell goods or services on the Internet, and cryptocurrency is accepted as a digital currency. Digital currencies that are cryptocurrencies can be sold or bought like commodities. Tax liability may arise, in this context. According to the Canadian implementation, cryptocurrencies are subject to the Income Tax Act. In addition, the Canadian Revenue Agency should be notified of the use of cryptocurrencies, otherwise it is not legal.</td>
</tr>
<tr>
<td>Cyprus</td>
<td>In Cyprus, the term virtual currency is used to describe cryptocurrencies. The Central Bank of Cyprus states that the purchase, storage, or trading of virtual currencies is not a legitimate means of payment. Also, there is no regulatory framework on cryptocurrencies, and the public warns of the potential downsides of cryptocurrencies. Profits from cryptocurrency trading are not taxed, including trading other securities such as stocks and forex.</td>
</tr>
<tr>
<td>Perancis</td>
<td>Cryptocurrency is defined as an unregulated virtual currency with no replacement guarantee. Virtual currencies have no legal or regulatory status. In addition, cryptocurrencies are criticized for aiding criminal activities. Another report published by Banque de France in 2018 stated that cryptocurrencies are not accepted as currencies. Therefore there is no guarantee of security, convertibility or value. However, Banque de France suggests a regulatory framework for dealing with cryptocurrency losses. One-time profits earned from cryptocurrencies are considered capital gains and taxed.</td>
</tr>
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</table>
Cryptocurrencies are not classified as legal tender in the UK and do not have specific cryptocurrency laws. If individuals in the UK hold cryptocurrencies for investment, these are considered assets, and the profits to be earned are subject to capital gains taxation. Individuals who trade in cryptocurrencies are taxed as income on their profits. In the case of companies, profits or losses on cryptocurrencies are taxed as income. The UK Tax Authority has published guidance on the temporary VAT treatment of cryptocurrencies. Lastly, no transfer tax is paid in the UK.

Cryptocurrencies are not permitted by any regulations in Spain. However, the government aims to make some arrangements for the cryptocurrency, which will include possible tax cuts for companies in the blockchain technology sector. The profits of cryptocurrencies are taxed under the Individual Income Tax Act.

Cryptocurrency is not a legal currency in Argentina, as it is not issued by the government. So that the profit increase in value or the results of the trade is not taxed.

In 2017 the Chinese government announced that initial coin offerings were banned in China, and the government did not recognize cryptocurrencies as a legitimate means of payment.

Source: (Barth, 2019) Abstracted by the author from various references and literature

It is understandable that the policy regarding taxation on cryptocurrencies is different from country to country, this is related to the way of looking at cryptocurrencies and digital assets. From the description above shows that there is no consensus among countries about the legal status of cryptocurrencies. In addition, there is also no consensus on cryptocurrency tax regulation and policy as well. Only a few countries have a comprehensive regulatory framework for ownership, trading as well as cryptocurrency assets while some other countries have only a partial regulatory framework.

C. Conclusion

From the description above, it takes the rule of law, about the existence of digital assets and digital currencies. From the rules formulated the provisions of tax law so that the provisions of income tax law on transactions of one of the crypto assets, namely cryptocurrencies in Indonesia can be obtained. Because there are no tax rules on cryptocurrencies and digital assets or NFT in Indonesia, the potential for avoidance of tax payments can occur. It can be said that the legal vacuum or tax rules in Indonesia specifically cryptocurrency investment actors then state revenue from taxes on cryptocurrency investment transactions and NFT digital assets is still not optimal while the potential is very large. It is still lacking and not optimal.
Bibliography


