



Imposing Duties and Taxes in the Context of Imports on Online Personal Shopper Service Providers

Aida Imara Yuliani

Faculty of Law Universitas Muhammadiyah Purwokerto

E-mail: aidaimara.y@gmail.com

Abstract

A personal shopper is an effort made by someone on personal social media and has become a trend among the public because of its ease. It is only necessary to hire someone traveling abroad and mention what goods they want will all get in hand without the hassle of going abroad. However, many of these businesses still commit fraud in practice, especially in terms of taxes. They tend to break down goods (splitting during customs checks to avoid taxes and import duties. This study aims to analyze import duties and taxes' imposition to import online personal shoppers and law enforcement efforts carried out by customs in dealing with personal shoppers who deliberately avoid taxes and import duties. This research uses normative research methods through literature by obtaining secondary data in legislation, research results, and scientific journals. Based on the research results, online personal shoppers' efforts are currently a rampant business in the community. This effort gives rise to the act of breaking up luggage or splitting done by an online personal shopper provider. Integrated law enforcement is required by involving relevant agencies and needs special arrangements about online personal shoppers.

Keywords: Import duty, taxes, Personal shopper service business.

Abstrak

Usaha jasa titip (Personal Shopper) adalah usaha yang dibuat seseorang di sosial media pribadi dan sudah menjadi tren tersendiri di kalangan masyarakat karena kemudahannya. Hanya perlu menyewa jasa seseorang yang sedang berpergian ke luar negeri dan menyebutkan barang apa yang diinginkan semua itu akan sampai di tangan tanpa perlu lagi repot pergi keluar negeri. Namun pada praktiknya, masih banyak pelaku usaha jasa titip ini yang melakukan kecurangan terutama dalam hal pajak. Mereka cenderung melakukan pemecahan barang (splitting saat pemeriksaan di bea cukai demi menghindari pajak dan bea masuk. Penelitian ini bertujuan untuk menganalisis penerapan bea masuk dan pajak dalam rangka impor terhadap penyedia jasa titip online dan upaya penegakan hukum yang dilakukan bea cukai dalam menangani pelaku jasa titip online yang sengaja menghindari pajak dan bea masuk. Penelitian ini menggunakan metode penelitian yuridis normatif melalui studi pustaka dengan menelaah data sekunder berupa peraturan perundang-undangan, hasil penelitian dan jurnal ilmiah. Berdasarkan hasil penelitian yang dilakukan, usaha jasa titip online saat ini merupakan usaha yang marak terjadi di masyarakat. Usaha ini memunculkan tindakan memecah barang bawaan atau splitting yang dilakukan oleh oknum penyedia jasa titip online. Diperlukan penegakan hukum secara terpadu dengan melibatkan instansi terkait dan perlu pengaturan secara khusus tentang usaha jasa titip online.

Kata kunci: Bea Masuk, Pajak, Jasa Titip Online.

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I. Introduction

In the current era of globalization, various aspects of people's lives are influenced by advances in information and communication technology. The development of the world of technology is increasingly advanced and has many innovations. The existence of sophisticated cellphones and various other supporting facilities make it easier for people to interact and find something they want. Business activities generally carried out conventionally are slowly switching over electronically and using computer networks, namely the internet, known as

Electronic-Commerce or abbreviated as E-Commerce.¹ The limited-time that consumers have to shop conventionally, due to many jobs, hectic road conditions, causing congestion to cause consumers' desire to shop for their needs quickly.²

The internet's new media, which has produced many social media platforms, have now given birth to many new communication patterns. One of them is in marketing activities and has resulted in new business models.³ The era of globalization provides much convenience for a person, also affects the traffic of goods and people moving in and out of the Indonesian territory very quickly and easily. This convenience is also influenced by establishing a free economic area, such as what happened in ASEAN in recent years, with establishing the ASEAN Economic Community (AEC). For example, this convenience allows one to travel abroad easily, especially for people near the border. Usually, people like this go abroad for various purposes; some go on a trip, work or visit relatives who live in neighboring countries. Apart from traveling, sometimes people also have an appetite for shopping for specific items abroad. The purpose of people for shopping also varies. It could be for collection, souvenirs for relatives in Indonesia, or using it to profit by reselling it in Indonesia. Respondents' awareness of personal shopper services was relatively high. More than half of the panels know about the existence of personal shopper services. Besides, awareness of personal shopper services is not limited by gender, age, or location. The leading players in the personal shopper service industry are internet users or netizens, who are non-formal individual providers. However, because this industry is promising, opportunities are open for established or new companies to enter the personal shopper service business. In a quotation from globalindonesianvoices.com, this industry has a potential network effect. The more individuals or companies that offer personal shopper services, the better for buyers because they do not have to visit stores selling goods, avoiding the long queues that usually occur during the sales season. Shoppers can sit back and relax, use a smartphone, and order.⁴

Mufti and Saraswati, in 2019, examined the factors why consumers make purchases through personal shopper service providers. The study results concluded that five reasons became the dominant factors, including the ease of accessing information. This study compares several online shops that provide personal shopper services: @Goodsxakha, @Titipdongkak, @Kitabeliindulu, and @Tipsyshoppers. However, research on this startup business is not specific to goods from abroad and does not discuss customs obligations that must be fulfilled when ordering goods from abroad.⁵ Rogue importers tend to manipulate this customs value notification with the intention that they can pay import duties and taxes in order to import low. The trick is to falsify complementary customs documents in the form of invoices or change the description of goods or technical specifications of goods that are not under the actual situation.⁶ As is the case with personal shopper service providers, they tend to do goods splitting or splitting by breaking goods in various suitcases carried by different people from their group to avoid import duty or import tax. There are already special personal shopper services for goods from America and China that openly promote personal shopper services, so buyers do not have to bother going to Customs. The customer only pays then waits for the goods to arrive in front of their house. These personal shopper service agents even connect to Amazon, eBay, AliExpress, and others.⁷ People assume that they only pay the amount listed on the marketplace. This personal shopper service practice is closely related to the Directorate General of Customs and Excise as a revenue collector, which collects state revenue and its role as a

¹ Abdul Halim and Teguh Prasetyo, *Bisnis E-Commerce*, (Yogyakarta: Pustaka Pelajar, 2005), 10

² Ambar Wariati and Nani Irma Susanti, "E-Commerce Dalam Prespektif Perlindungan Konsumen", *Jurnal Ekonomi & Bisnis*, Vol. 1, No.2, November 2014: 2

³ Intan Siti Muslichah and Irwansyah, "Instagram dan Fenomena "Jasa titip" di Indonesia", *Journal Communication Spectrum: Capturing New Perspectives in Communication*, Vol. 9 No. 2, 2019-2020: 143.

⁴ *Ibid.*

⁵ Masruri Muchtar, "Analisis Swot Untuk Menentukan Strategi Penanganan Barang Jasa titip (Studi Kasus Kpu Bc Tipe C Soekarno-Hatta)", *Jurnal Perspektif Bea Dan Cukai*, Vol.3, No.2, 2019: 132.

⁶ Adrian Sutedi, *Aspek Hukum Kepabeanan*, Penerbit Sinar Grafika, Cetakan Pertama, Jakarta, 2012,3-4.

⁷ *Ibid*, 131.

community protector, namely protecting Indonesians from prohibited entry/or restricted imported goods.⁸

II. Research Problems

1. How are the import duties and taxes imposed on online personal shopper service providers?
2. How is the Directorate General of Customs' effort and Excise in dealing with online personal shopper service actors who deliberately avoid taxes and import duties?

III. Research Methods

The method in this research is to use the normative juridical method. The normative juridical research method is a scientific research procedure to find the truth based on the law's scientific logic from the normative side.⁹ The normative juridical method is carried out through literature studies that examine especially secondary data in the form of laws and regulations, court decisions, agreements, contracts, other legal documents, research results, assessment results, and other references. This research is descriptive, which provides an overview of the juridical review of law enforcement on the imposition of import duties and taxes in the context of imports of online personal shopper service providers. Presentation of data in the preparation of this study is presented in the form of descriptions. Methods arranged systematically, logically, and rationally. In the sense that the overall data obtained will be linked to one another according to the subject matter under study, it is a complete unit based on legal norms or legal principles and legal doctrine relevant to the subject matter. The analysis used is qualitative data analysis, namely data that cannot be directly measured or assessed by numbers. Thus, after the primary data and secondary data in the form of documents are obtained, it is then analyzed with regulations related to the problem under study.

IV. Results And Discussion

1. Imposition of Import Duty and Taxes in the Context of Imports on Online Personal Shopper Service Business Providers.

In the case of buying goods online through online personal shopper services, it includes an agreement between the two parties that agrees, leading to a legal relationship. Furthermore, the agreement has also become law or law that binds the parties who have entered into a sale and purchase agreement through the personal shopper service.¹⁰ Personal shopper service businesses can be used as tax objects because of the benefits obtained from the business.¹¹

The mechanism for online entrusting services in their transactions is that the depositing party is required to fill in the order format determined by the personal shopper service provider and is required to pay in advance by transfer to the personal shopper's account service provider. After that, the entrusted party will spend the money under the trustee's order. However, when the item the safe keeper wants in the shop turns out that the goods' availability is not there, the provider will return the deposit amount, but the amount is not the same as the depositor's initial amount.¹²

Customs functions are regulated in the Indonesian Customs Law as stated in the main provisions of Article 2 paragraph (1) of the Customs Law. That article stipulates that goods entered into the customs area are mainly import duties, and based on the proposition of the

⁸ *Ibid*

⁹ Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing: Sixth Prints, Malang, 2012:57.

¹⁰ I Gst. Agung Rio Diputra, "Pelaksanaan Perancangan Kontrak Dalam Pembuatan Struktur Kontrak Bisnis", *Jurnal Acta Comitatus*, Vol. 3 No.3, 2018:552.

¹¹ Usamah Rievzqy Ahmad, "Pemberlakuan Pajak Terhadap Barang hasil Transaksi Jasa titip online" *Jurnal Suara Hukum*, Vol. 2, Nomor 1, 2020: 84.

¹² *Ibid*. Hal 80.

main provisions, the juridical status of goods from the time of entry into the customs area until customs obligations are fulfilled becomes the object of supervision of the Customs and Excise Official. As for the authority of Customs and Excise Officials to supervise, inspect and enforce the transportation means. Customs and Excise Officials' authority in determining customs tariffs and values is regulated in Article 16 paragraph (1) and (2) of Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006. The customs value is the value used as a basis for calculating Import Duty and Tax in the Framework of Import. The purpose of determining the customs value for the customs party is to examine the correctness of the customs value notified by the importer. If an importer's notification of customs value is correct, then the calculation of Import Duty and Tax for import is also correct.¹³

Based on Article 25 paragraph (1) of Law Number 17 of 2006 concerning Customs, goods that are not subject to import duty or are free from import duty are goods of representatives of foreign countries and their officials assigned to Indonesia, goods for international agencies, books. Science, gifts / grants for public worship, charity, social, cultural or natural disasters, goods for museums, zoos, and other places of the sort that are open to the public as well as for nature conservation, goods for research purposes and the development of science, goods for the unique needs of the blind or other disabled, weapons, ammunition, military and police equipment necessary for state defense and security, goods and materials used to produce goods needed for state security and defense, sample goods that are not traded, in crates or packages other containing corpse or ashes, moving goods, personal belongings of passengers, crews of transportation means, border crossers, and consignments up to a specific customs value and / or a certain amount, drugs imported using government budgets for the benefit of the community, goods that have been exported for the purposes of repair, work, and testing, goods that have been exported are then re-imported in the same quality as the quality at the time of export, human therapeutic agents, blood grouping, and tissue type materials.¹⁴

Every type of goods brought by a person from abroad into the Republic of Indonesia's sovereign territory is included in the type of imported goods even though the goods previously originated from the Indonesian state's territory were taken by Indonesians themselves outside the sovereign territory of the Republic of Indonesia. That is important for everyone who likes to travel abroad because goods included in imported goods can be subject to import duties and taxes for importation. The limitation of customs value is carried out because of the many interests of individuals to become intermediaries for entrusting imported goods so that an attitude is needed to protect domestic producers so as not to lose their interest and go out of business due to being unable to compete with foreign products which of course attract more public interest. That is undoubtedly a reference for the government to take preventive steps in order to protect domestic producers who are threatened because people's purchasing power decreases because it is easy to shop and get imported goods through personal shopper services, which every year service actors entrust imported goods always increase and attract public interest. To own imported goods without having to travel abroad.¹⁵

In addition to being regulated in Law Number 17 of 2006 concerning Customs, in matters related to online personal shopper service providers, it is regulated in Regulation of the Minister of Finance number 203 / PMK.04 / 2017 concerning Provisions for Export and Import of Goods Carried by Passengers and Crew of Facilities Carrier. Usually, people on vacation or abroad bring goods needed while abroad from Indonesia and buy goods needed abroad for personal or personal needs. Based on article 26 of the Minister of Finance Regulation number 203 / PMK.04 / 2017, passenger luggage entering the Customs Area is also called imported passenger goods. That is consists of personal passenger items used or used for personal purposes, including personal use and/or imported goods carried by passengers other than

¹³ Jatmiko Winarno, "Tarif Bea Masuk Atas Barang Impor Berdasarkan Undang-Undang Kepabeanan", *Jurnal Independen*, Vol. 2, Hal. 2.

¹⁴ Law Number 17 of 2006 concerning Customs.

¹⁵ Stefani Gabriela Listijo, "Pemungutan Pajak Pertambahan Nilai Terhadap Barang Jasa titip Dari Luar Negeri" *Jurnal Jurist-diction* Vol.3 No. 5, 2020:2317.

personal items), which are goods whose quantity, type, and nature are not acceptable for personal use and/ or are carried for industrial, corporate, shop, institutional, or other purposes other than necessities. Personal. The personal shopper service goods carried by personal shopper service entrepreneurs are included in the category other than personal use because they are used for purposes other than personal needs, namely to be re-traded and gain profit from it.¹⁶

Goods carried by passengers or the real carrier crew can be exempted from import duty with the provisions of certain customs value limits and under the applicable laws and regulations.¹⁷ Passenger personal belongings may be subject to exemption from import duty as long as the goods' value does not exceed FOB USD 500.00-. Per person for each arrival. If the passenger has goods with a value above FOB USD 500.00 or exceeding the customs value limit, the passenger goods are subject to import duties and taxes for import, consisting of 10% Value Added Tax (VAT) and 7 Income Tax (PPh). 5% if someone has an NPWP. If someone does not have an NPWP, someone will be charged a 100% higher rate (PPh 15%).¹⁸ Passenger's items, apart from being granted exemption from import duty as long as the goods do not exceed the customs value, personal passenger items are also not subject to excise for adults with a maximum number of 200 cigarettes, 25 cigars, and 100 grams of tobacco and 1 (one) liter of beverage containing ethyl alcohol.¹⁹

If someone registers personal shopper services as the main business activity, they will be categorized as intermediary services, so they are exempted from the imposition of 0.5% final income tax x turnover. Under Article 2 paragraph (3) and (4) letter h Government Regulation Number 23 of 2018²⁰ However, it can be different if the personal shopper service is a provider's side business. Goods for personal shopper services must also have PIBK-BC 2.1. PIBK documents or Notification of Import of Special Goods can be used to notify imports of moving goods, temporarily imported goods under passengers, sea, and air transportation facilities, imported goods through courier services, and other specified goods. By the Director-General and Customs. PBK-BC 2.1 functions to determine the rate of goods and the method of paying taxes.²¹ PIBK-BC 2.1 is made in triplicate with customs complementary documents submitted to customs officials manually. Customs and excise officials carry out a physical inspection, determine tariffs, customs value, and calculate import duties, excise and taxes in the context of import.²²

Goods resulting from personal shopper services are also subject to VAT and will also be subject to BM rates under the 2017 BTKI provisions. If it is related to the principle of collection from Adam Smith, then the collection of Value Added Tax on goods entrusted from abroad fulfills equality because VAT charges are balanced with income, which he enjoyed. The VAT rate is included in the proportional rate, a fixed percentage of 10% (ten percent), but the tax payment amount will change proportionally / proportionally to the tax base. The more entrusted goods and services are brought from abroad, the higher the income to be obtained, the higher the value of VAT charges imposed from the percentage set at calculating the tax.²³

Providers of personal shopper services are also subject to income tax under the Regulation of the Director-General of Taxes Number PER.32 / PJ / 2010 concerning the implementation of Article 25 Income Tax for certain individual taxpayers. The regulation stipulates that individual entrepreneurs through the internet (online) must pay income tax

¹⁶ Stefani Gabriela Listijo, "Pemungutan Pajak Pertambahan Nilai Terhadap Barang Jasa titip Dari Luar Negeri" *Jurnal Jurist-diction* Vol.3 No. 5, 2020 :1928.

¹⁷ Minister of Finance Regulation number 203 / PMK.04 / 2017 Article 11.

¹⁸ Usamah Rievzqy Ahmad, "Pemberlakuan Pajak Terhadap Barang hasil Transaksi Jasa titip online" *Jurnal Suara Hukum*, Vol. 2, Nomor 1, 2020: 83.

¹⁹ *Ibid.*

²⁰ Usamah Rievzqy Ahmad, "Pemberlakuan Pajak Terhadap Barang hasil Transaksi Jasa titip online" *Jurnal Suara Hukum*, Vol. 2, Nomor 1, 2020:82

²¹ Beacukai.go.id

²² *Ibid.*

²³ Stefani Gabriela Listijo, "Pemungutan Pajak Pertambahan Nilai Terhadap Barang Jasa titip Dari Luar Negeri" *Jurnal Jurist-diction*, Vol.3 No.5, 2020:1934

under applicable regulations. Although this personal shopper service entrepreneur does not have a physical place of business, the obligation to pay PPH is still binding on him.²⁴

2. Efforts Made by the Directorate General of Customs and Excise in Handling Online Entrepreneurs

The Directorate General of Customs and Excise recorded 422 cases of personal shopper service violations at Soekarno-Hatta airport during the January-September 2019 period. 75% of the cases of personal shopper services were dominated by luxury goods, including cosmetics, bags, shoes, electronic goods, rings, necklaces, and others. Country targets for personal shopper service actors are Bangkok, Singapore, Guangzhou, Australia, and Abu Dhabi. These countries have a flight frequency that the government suspects.²⁵

The Directorate General of Customs and Excise of the Ministry of Finance, Heru Pambudi, stated that splitting goods ordered by personal shopper services or the splitting method has various forms ranging from entrusting ordered goods several people or through goods delivery services. That is done to circumvent the exemption value limit of 500 US dollars per passenger regulated in the Minister of Finance Regulation number 203 / PMK.04 / 2017 concerning the provisions for export and import of goods carried by passengers and crews of transportation means. Heru said there were still unscrupulous traders who took advantage of the exemption policy from import duty or excise value with a specific limit on imported goods or *de minimus* value of shipments by breaking the consignments into several consignments and under *de minimus* value with quite extreme values on the same day.²⁶ According to Heru, in September 2019 there were 14 entrusted intermediaries claimed their belongings were personal items to avoid taxes. These 14 people are provided with round-trip tickets to the destination country to buy the goods ordered and claim them as personal items to be free from taxes and import duties. They buy three bags, 3 to 5 pairs of shoes, two iPhones, rings, necklaces, and so on. According to Heru, the import duty exemption limit for passengers of 500 USD, stated in Permenkeu number 23 / PMK.04 / 2017, actually provides a legal loophole for tax evaders and breaks the purchase of goods by several people whom the perpetrators finance.²⁷

Based on the author's information by interviewing online with Pandu Pradana, one of the goods inspectors at KPU Type C, Soekarno Hatta, according to him that officers often find insufficient entrants who often avoid taxes but are emphasized by informants that the act of entrusting services is not prohibited. The mode that is often used by personal shopper service actors who avoids taxes and import duties is such as bringing more than one new cellphone, but the box has been opened and stored in a carry-on bag/carry-on bag when it passes through customs inspection and is recognized as personal use for the purpose so that the goods are protected from import duty. The informant also stated that entrusting services was not prohibited, and there was no criminal penalty except when the perpetrators brought prohibited goods under applicable regulations such as drugs. The informant also said that to avoid these things, the officers needed to further tighten and socialize with the customs and passengers regarding regulations and rules regarding passenger crews' luggage under existing laws. Customs authorities are also deemed necessary to monitor and profile passengers properly and more thoroughly to avoid rogue elements who deliberately avoid import duties and need to conduct training for supervisory officers for officers in the field to be more professional, observant, and agile.

If the personal shopper service provider does not fulfill the stipulated import duty provisions, he is obliged to pay the payable import duty and pay administrative sanctions in the

²⁴ Regulation of the Directorate General of Taxes Number PER-32 / PJ / 2010 Concerning the Implementation of the Imposition of Income Tax.

²⁵ Available on the online website <https://tirto.id/bea-cukai-tindak-422-kasus-jasa-titip-selama-januari-september-2019-eiRb>. Retrieved October 13, 2020.

²⁶ Available on the online website <https://republika.co.id/berita/pyhi0b423/bea-cukai-ungkap-berbagai-modus-jasa-titip-barang-impor>. Retrieved October 13, 2020.

²⁷ *Ibid.*

form of a fine of at least 100% (one hundred percent) of the import duty that should be paid and a maximum of 500% (five hundred percent) of the import duty that should have been paid.

The personal shopper service actor is splitting or splitting the luggage to avoid levying import duties and taxes in import or hiding the imported goods illegally and deliberately notifying the amount and type of goods that are wrong or not under what is actually in the customs declaration. It will be convicted of smuggling in the import sector with a minimum of 1 (one) year and a maximum of 10 (ten) years and a minimum fine of Rp.50,000,000 (fifty million rupiahs) and a maximum of Rp.5,000,000,000 (five billion rupiahs).

The personal shopper will also be subject to criminal sanctions if they submit the customs declaration and/or complementary customs documents incorrectly or is falsified, creates, approves, participates in data falsification, hoarding, storing, possessing, buying, selling, exchanging, obtaining, or giving imported goods that are known or reasonably suspected to have originated from a criminal act as referred to in Article 102 of Law Number 17 of 2006 concerning customs, will be punished with imprisonment of at least 2 (two) years and a maximum of 8 (eight) years and as well as criminal a fine of at least Rp. 100,000,000 (one hundred million rupiahs) and a maximum of Rp. 5,000,000,000 (five billion rupiah).

V. Conclusions

Any goods brought from outside the territory of Indonesia are imported goods. Likewise, for goods carried by personal shopper service providers, these goods must be subject to import duty and Import Tax (PDRI) with the provisions of 10% Value Added Tax (PPn) and 7.5% Income Tax (PPh) if they have NPWP and will be subject to a 100% increase for taxpayers who do not have an NPWP, namely 15%.

The personal shopper service business is a business allowed by the government and is not a prohibited business. Based on Permenkeu No. 23 / PMK.04 / 2017, there is an exemption from import duty on luggage for transportation means crews and ship passengers if the goods have a value not exceeding FOB USD 500. It provides an opening for bad personal shopper service actors who deliberately avoid import duty taxes by dividing luggage, or it can be called splitting. The personal shopper service actor who often avoids taxes utilizing splitting will be strictly admonished by the Customs and Excise Officer and will be given sanctions under the existing regulations.

VI. Suggestions

The personal shopper service is a business opportunity that the government is not prohibited, but provided that the business provider must obey the predetermined payment of taxpayer levies, where the use of taxes is an effort to protect domestic products. Therefore, online personal shopper service providers should register their business, act under applicable regulations when auditing and paying tax collections according to the value of the goods they carry. The Republic of Indonesia should make more concrete legal rules regarding e-commerce-based businesses, especially online personal shopper services, which are rarely found more concrete regulations to regulate these activities. The rise of personal shopper service actors who are dishonest and often break down luggage should be of more significant concern to the Director-General of Customs and Excise. The importance of educating field officers to pay more attention and tighten the supervision and profiling of passengers properly educate more about the applicable regulations, and provide education to personal shopper service actors to comply with applicable regulations and tax imposition.

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