Analysis on the Vat-Only Registration of Non-Resident Traders in Relation to Supply Chain Activities

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Abstract. This paper analyses the possibility of implementing a VAT-non-PE (hereinafter referred as ‘VAT-only’) registration under the prevailing Indonesian Tax Laws to accommodate changes in the global business models. The research methodology used is a literature research, particularly those detailing VAT practices in ASEAN countries in dealing nonresident entities to apply for a VAT-only registration under certain circumstances. In-depth interview with capable fiscal scholars and tax practitioners were also carried out aimed at providing suggestions on how VAT-only registration for nonresident traders could be implemented so as to enhance a favorable climate for supply chain activities in Indonesia. In addition, a secondary data collection is also conducted to support the suggestions of introducing a VAT-only registration in this jurisdiction in respect of nonresidents due to the following reasons: (i) it technically does not breach the prevailing tax law; and (ii) it may encourage more supply chain activities by nonresidents in Indonesia in order to further developing the national economy.

Keywords: value added tax, tax administration, nonresident traders

INTRODUCTION

Economic globalisation is an absolute truth, which implies the ever-integration of international economy and trade. The world becomes an integrated economic market powerhouse without any hindrances caused by international borders. Globalisation have, silently, erases the obstruction against the flow of capital/investment, goods, services, and people. Territorial borders of a country are blurred, and interconnection between the domestic and global markets are intensified (Halwani, 2002). Thus, the opportunity for global market competition of a product from a certain country is more open than ever. On the other hand, however, the potential of the introduction of foreign goods into the competition at the local market would be overwhelming (Arisandi, 2011).

In accordance with the process of globalisation of the economy and trade, there have been changes in the global business model of multinational corporations (Moore, 2004). Significant changes take place in digitalisation and reduced transportation and communication costs due to advancements in technology, production, and distribution, which modifies the supply chain management of numerous corporations. For the sake of efficiency, Tax Efficiency Supply Chain Management (TESCM), or supply chain management model, shifts risks and decreases the function of each production chain and product distribution from the producer to the consumer to the central enterprise located in a favourable tax jurisdiction offering tax benefits for efficient global tax expenses. The TESCM practice, for instance, reduces the function of the manufacturer as a producer of goods into a provider of toll-manufacturers as the procurement of raw materials and other prerequisites are shifted towards the central enterprise. In the Value-added Tax (VAT) system, this functional shift leads to transaction changes from delivery of goods to delivery of services.

According to Gunasekaran et al. (2001), supply chain management is a key strategic factor for increasing organizational effectiveness and for better realization of organizational goals such as enhanced competitiveness, better customer care and increased profitability. The era of both globalization of markets and outsourcing has begun, and many companies select supply chain and logistics to manage their operations. Most of these companies realize that, in order to evolve an efficient and effective supply chain, supply chain management needs to be assessed for its performance. Theoretically, different scholars gave different definitions. Mentzer et al. (2001) conducted a study on this concept and concluded that supply chain management is the systemic, strategic coordination of the traditional business functions and the tactics across these business functions within a particular company and across businesses within the supply chain, for the purposes of improving the long-term performance of the individual companies and the supply chain as a whole.

On the other hand, Jebarus (2001) viewed that supply chain management is the advanced development of distribution management so as to fulfill consumer demands. This concept emphasizes an integrated pattern concerning flow of goods from the supplier, manufacturer, retailer, and finally to the consumer. On this basis, the
activity from the supplier to the end-consumer is on one borderless unity, so that the flow of information between the various elements occurs transparently.

The objective of each supply chain is to maximize the overall value (Chopra, 2001). An integrated supply chain would increase the overall value made by the chain. Supply chain management is the coordination between material, information, and cash flow between participating enterprises. Supply chain management may as well encompass every activity from the raw material to sales of the end-product to the consumer to the recycling of the used product. Material flow involves the flow of products from the supplier to the consumer through a distribution network; a similar principal applies for the backflow of products, services, recycles, and disposal. Information flow involves prediction of demand, transmission of order, and status of order report, which operates between the end-consumer and the raw material provider. Financial flow involves credit information, credit requirements, and payment schedules pertaining to ownership arrangement and delivery. Turban et al. (2004) identifies three components of the supply chain, namely: upstream supply chain, internal supply chain management, and downstream supply chain segment. Upstream supply chain involves activities of a manufacturing company with its distributors (such as manufacturer, assembler, or both) and their relations with the second-tier. The main activity in the upstream supply chain is procurement. Internal supply chain management usually involves the processes of moving goods into warehouses, which is transformed by the manufacturers into products made by the organization. The main concerns in internal supply chain are production management, fabrication, and supply control. The downstream supply chain segment involves the activities concerning the delivery of the products to the end-user. The main concerns in the downstream supply chain are distribution, warehousing, transportation, and after-sales services.

Current conditions allot the supply chain into different components among various specialist providers, which is often known as contract manufacturers or toll-manufacturer providers around the globe. At the same time, multinational corporations may easily reach economies of scale in certain areas, such as research and development, marketing, procurement, management information, and finance. Shifts in management and operations have caused numerous global organizations to have strong central management that is highly specialized in manufacturing, marketing, and local logistics.

Swift changes at every level require novel business models to continue to adapt and adjust with new environments and global competition. In order to attract businesses, foreign investments, and their potential tax income, the state has to reform its taxation systems in order to accommodate global business models. In turn, the enterprises will have to adjust their business models in tune with the ever-changing business landscape to stay competitive in the global market, all without hindrances from domestic tax regulations.

The global supply chain structure used by manufacturing companies in Indonesia usually involves the following companies: (i) Raw material supplier/auxiliary goods and services company in Indonesia or abroad; (ii) Manufacturing company, as a toll- or contract manufacturer who provides manufacturing services to a central enterprise which is usually chartered in Indonesia; (iii) Central enterprise, acting as the supply regional/global chain manager and is usually located in the home country of the company; (iv) Sales company, located and chartered in Indonesia; and, (v) Consumer, may be located in Indonesia or abroad. For illustrative purposes, the goods and services provider (GSP) and manufacturing company (MC) bind itself in a contract with the central enterprise (CE) to create a product according to the specifications provided by the CE, which is then distributed to the consumer (C) through a sales company in Indonesia (SCI).

In the supply chain structure above, all except the CE are established in Indonesia and being Indonesian domestic tax residents. They are registered as taxpayers and VAT entrepreneurs by virtue of the Tax Identification Number (TIN) and VAT Registered Entrepreneur Number (V-REN). Conversely, as foreign companies without having any Permanent Establishment in Indonesia, the Central Enterprise, as a Non Resident Trader (CE-NRT) is neither issued a TIN nor affirmed as V-REN Company. The CE-NRT would provide goods to be manufactured in Indonesia and supply goods from Indonesia.

The issue is that, taking into account the efficiency of the supply chain management and cost savings of transportation and the application of the principle of neutrality among businesses, goods from the manufacturing company (MC) may be directly shipped upon request from the central enterprise (CE, as owner) to the sales company or consumer (SPI), rather than shipping it to CE and reporting it as exported goods.

Current supply chain practices is based on the Minister of Finance Regulation Number 30/PMK03/2011 on Amendment to the former Minister of Finance Regulation Number 70/PMK03/2010 on the Definitions of Business, Taxable Services, and Exports Subject to VAT where the Government intended to provide equal treatment between businesses in toll/contract manufacturing and full manufacturing. Generally speaking, full manufacturing is an industrial activity or business activity which produces
goods or services carried out by or for individual interests and not by order from other parties.

There are 3 (three) points of emphasis included in the Minister of Finance Regulation, namely: (i) clarification of the definition of Toll Manufacturing; (ii) clarification of the levy of VAT on Input Tax pertaining to exported Toll Manufacturing Goods (it is emphasised that input tax, either from exported toll manufacturing services or exported toll manufacturing goods may be credited); and, (iii) emphasis on export report, that is goods to be exported from toll manufacturing must be reported by the relevant V-REN Entrepreneur in its monthly VAT Return. Toll manufacturing services as defined in the Regulation is the provision of services to finish a certain product whose production process is conducted by the service provider ( subcontracted), where the service user provides the specifications, and provides the raw materials and/or knock-down of the product and/or supporting/auxiliary materials which will be processed partly or wholly, and ownership of the finished product belongs to the service user.

As an illustration, the Minister of Finance Regulation Number 30/PMK.03/2011 stipulates that every service or goods consignment must be reported in a monthly VAT Return of the relevant V-REN Entrepreneur, thus every Input Tax listed in the monthly VAT Return is limited only to the service consignment. This practice allows the goods or services consigned to be credited (Policy Package Document, February 2011).

In comparison to China, for instance, toll manufacturing (tolling) and contract manufacturing are two major business forms used for export sales in China. Lin (2011) stated that under the current VAT rules, the service fee charged by a toll manufacturer as part of a toll manufacturing agreement is exempt from output VAT. At the same time, the input VAT related to domestic purchases of raw materials and/or consignment processing services purchased by the toller cannot be refunded or credited against output VAT. This input tax block results in the following VAT costs (or “VAT leakage”): VAT leakage = the cost of domestic purchases x the VAT rate (Lin, 2011).

The Minister of Finance Regulation, effective since February 28, 2011, stated that every production made through toll manufacturers are to be consigned to the owner/customer (the central enterprise) and indirectly consigned to the sales company or directly to consumers in Indonesia. Consignment of goods to owners/customers abroad is to be reported as export in the VAT Returns of the toller as the manufacturing company.

In an Indonesian context, should the non resident trader of central enterprise (CE) be registered as a V-REN Entrepreneur in Indonesia? According to the provisions of many tax treaties, the central enterprise (CE), known as Non Resident Trader (NRT), may not meet the criteria to become a Permanent Establishment in Indonesia. It follows that there are tax administration issues on whether a Central Enterprise Nonresident Trader (CE-NRT) may be registered as a V-REN Entrepreneur without a TIN, or as a Non Permanent Establishment V-REN? Should the enterprise be affirmed only as a V-REN Entrepreneur (VAT-only registration) so that Indonesia may impose VAT on the delivery of Taxable Goods/Taxable Services as part of the production and procurement of goods in the supply chain? Could, a statutory body be administratively given a TIN without being affirmed as V-REN Entrepreneur due to certain technical reasons? The same applies to a subject (such as the Government Treasurer) who may be affirmed as a withholding or collecting taxpayer with a TIN without being an Income Tax subject (Withholder non subject to income tax).

As an illustration, putting aside consignment/export of goods produced by toll manufacturers to the central enterprise in accordance with the Minister of Finance Regulation Number 30/PMK.03/2011, figure 1 details the scenario of the flow of goods and the consequences of VAT from the supply chain structure, if Non Resident Traders (CE-NRT) are not registered as V-REN Entrepreneurs because of no existence of its Permanent Establishments in Indonesia pursuant to the provisions of the applicable tax treaty.

Figure 1 below details that the Central Enterprise Non Resident Traders (CE-NRT) may not collect VAT from the sales company (SC) and credit the input VAT collected by the manufacturing company (MC) in Indonesia since it does not have a TIN and considered as Non V-REN Entrepreneur. Consequently, CE-NRT has to bear an IDR 500 VAT, which can not be credited, as additional costs to continue the supply chain production of products manufactured in Indonesia. This causes a cascading effect in the form of increasing tax burden on the consumer’s end (Sukardji, 2010 and Oktaria, 2011), which is not desired in consumption-based taxation within the VAT system. The reason for such is because VAT should create economic efficiency and neutrality in trade. VAT is basically a sales tax levied for the value added on all production lines and distributions. Value added is all additional values arising from chains of production and distribution of goods, including interest, rents, wages, and margins as well as all costs for a profit. In every selling price of a product there is always the value added in the form of gross profit (mark up), because every seller demands profit (Rosdiana and Tarigan, 2005).

Based on the background elaborated above, the focuses of this study are: How do several ASEAN countries apply the VAT-only registration mechanism? Does the fiscal regime in Indonesia legally allow foreign business entities
to register a VAT-only registration in order to improve the supply chain activity in Indonesia?

**RESEARCH METHODS**

The paradigm of this study is post positivist accompanied by qualitative approaches (Denzin and Lincoln, 1994). Data is collected from literatures prevalent in the field as well as direct observation. The field research was carried out through interviews with key informants, such as fiscal scholars, relevant business practitioner, and competent tax consultants. Relevant literatures of similar practices in ASEAN countries are compared, supported by secondary data in the discussion to answer key questions queried by this study. Data is analysed using the illustrative method by simulating empirical cases to explain the application of the theories (Creswell, 2003).

This study describes the comparison on the application of VAT-only registration to foreign business entities without having any permanent establishment in several
countries in the ASEAN region to the possibility of its application in Indonesia since it may affect the improvement of activities in the supply chain in Indonesia. The findings of this study are not only useful academically - an increment to the science of taxation, especially VAT on supply chain - but also provide input for the Taxation Authorities as well as other relevant parties to formulate policies pertaining to the subject of this study. Taxation, in essence, is applied science, thus the findings of this study are expected to provide constructive contribution to the policies made in VAT by the government. Nonetheless, further studies prior to the decision making is required as taxation is dynamic in nature.

RESULT AND DISCUSSION

A VAT-only registration for the interests of VAT is a common practice globally and facilitates local VAT compliance for non resident traders making taxable supplies in the local jurisdiction. However, in accordance with the tax treaty provision, the businesses in question are considered as exporting taxable goods/taxable services, which may not be construed to have a permanent establishment at the source country. European Union countries, such as the UK, Denmark, Germany, Hungary, Italy, the Netherlands, Poland, Spain, and Sweden, have implemented the registration of V-REN Entrepreneurs for non resident traders which deliver taxable goods/services within their jurisdiction. Other countries which have adopted VAT-only registration are Australia, Japan, New Zealand, Canada, Mexico, and South Africa (EandY, 2010). The policy of registering V-REN Entrepreneur is made and is useful. For instance, several countries require Non Resident Traders to collect and report VAT returns and record on VAT levied on supplies of Taxable Goods/ Taxable Services made.

Choon Beng Ng, an indirect tax associate director at one of big four Tax Consultants in Singapore, explains that to implement a VAT-only registration countries will often require the Non resident Traders applying for VAT registration to appoint a local company to be accountable for the tax and undertake the VAT compliance obligations on behalf of the foreign company (also commonly known as fiscal agent or VAT representative). The appointment of the independent fiscal agent would help to address the possibility of a default of VAT payment by non resident trader. In many ASEAN countries, Non Resident Traders (NRTs) can be registered for a VAT-only registration status without having to establish a local entity or a branch. This allows the NRTs to conduct the consignment transaction of the Taxable Goods/Taxable Services by means of the supply chain without creating obligation to pay income tax resulting from the business.

Implementation of VAT-only registration for NRTs can be found in the following ASEAN countries (please note that Malaysia has not introduced a GST/VAT system yet):

In Thailand and Singapore, certain V-REN is provided separately by the Taxation Authorities to the agents, and VAT refund is transferred through cheques or checking account of the agent or the NRTs, providing that the remittance fees are the responsibilities of the latter. Table 2 summarises the distribution of functions and responsibilities of the NRTs and the agent in respect to the implementation of VAT-only registration.

Technically, a VAT-only registration of NRTs sidesteps the cascading effect of VAT caused by the inability to credit the input VAT from the procurement of goods and services on the supply chain by the NRTs. As a consequence, the uncredited VAT is considered as additional costs added to the price components. When the product is sold and subjected to VAT, a cascade of tax burdens causes the price of the product sold higher than it should be. The longer the supply chain of a product, the higher the VAT costs borne, which in turn increases the cost of taxes at the end-consumer.

We should take into consideration the legal character of VAT in Indonesia as: indirect taxes, tax on domestic consumption of taxable goods and services, and its calculations which use the indirect subtraction method through VAT crediting mechanism of VAT input using documents such as tax invoice, a VAT-only registration for NRTs may perhaps create trade neutrality.

The amendment of Law Number 8 of 1983 on Value Added Tax and Sales Tax on Luxury Goods by virtue of Law Number 42 of 2009 (hereinafter referred to as VAT Law), Article 1 paragraph 14 stated that: “Entrepreneurs are individuals or entities of any type, in their course of business activity, producing goods, import goods, export goods, selling, utilizing overseas intangible goods within the Customs Jurisdictions, providing services including exporting of services, or utilizing offshore services within the Customs Jurisdictions”. Further paragraph 15 of the same article explains the definition of V-REN Entrepreneurs as entrepreneurs conducting delivery of Taxable Goods and/or Taxable Services in accordance with VAT Law. In relation to the reports from businesses to be registered to obtain V-REN, Article 2 paragraph 2 of Law Number 6 of 1983 on General Provisions and Taxation Procedures as amended by Law Number 16 of 2009 on General Provisions and Taxation Procedures (hereinafter referred to as GTPP Law) stated that every Taxpayer acting as Entrepreneurs subject to VAT are required to register his/her business to the Taxation Authorities, whose scope of work includes: residency
domicile, or location of management of the Entrepreneur, and location of business to be registered and obtain V-REN. In terms of territory, it is a certainty that NRTs do not reside or are located in Indonesia as they are Foreign Companies; thus, based on the two aforesaid criteria, NRTs are not required to register themselves to be affirmed as V-REN Entrepreneurs. The possibility of NRTs to be registered and obtain V-REN is by means of a third criterion: location of business, providing that the location is not meant as ‘a business unity as an extension of a place of residence’ (for Individual Taxpayers) or management location (for Body of corporation entities) as delivery between headquarter and branches office and inter branches of the same entity is considered as taxable delivery according to Paragraph 1A article (1), sentence (f) of VAT Law.

The definition of ‘branch’ in the VAT Law is dissimilar to the conventional definition of ‘branch’ in accounting or business. In the Law, branch is defined as, among others, location of business, representative office, marketing office, and the like. The word ‘the like’ carries disputable connotations depending on interpretation. Rosdiana (2008) stated that it is not uncommon that V-REN Entrepreneurs bear taxes more than that outlined in the VAT concept—in proportion to the value added. This is due to the fact that many V-REN Entrepreneurs do not understand the regulation.

If a CE-NRT conducts business in the form of supply chain in Indonesia through a Permanent Establishment, the confirmation as a V-REN Entrepreneur may proceed according to current regulations. In actuality, supply chain management attempts to trim conventional supply chain functions to shift profits from every chain to the CE-NRT and no to pay tax in the source country. The tolerance to a V-REN registration by CE-NRT on this supply chain business through an independent fiscal agent that resulting in tax free to this cross-border income, essentially means giving an income tax incentive to develop the economy and trade, especially international trade of a country. To trade off, it requires CE-NRT to collect, settle and file its VAT reporting.

To reach the stated objective, it is administratively possible for a CE-NRT without having any Permanent Establishment in Indonesia to be affirmed as a V-REN. As a technical comparison, the Directorate General of Taxation of the Ministry of Finance have made an administrative breakthrough by issuing a TIN to Foreign Companies, even though their business do not meet a

Table 1. ASEAN Countries Implementing VAT-only registration

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Thailand</th>
<th>Vietnam</th>
<th>The Philippines</th>
<th>Singapore</th>
</tr>
</thead>
<tbody>
<tr>
<td>VAT Registration Only?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Requirement</td>
<td>A foreign company is required to appoint a local business entity in Thailand as a VAT agent. The agent handles the VAT returns for the company.</td>
<td>Based on specific approval from taxation authorities.</td>
<td>Based on ruling from taxation authorities allowing VAT-only registration for the foreign company.</td>
<td>GST (VAT) taxable supplies in excess of S$1 million over four quarter in Singapore. The foreign company is required to appoint a fiscal agent in Singapore to be accountable for tax and undertake the GST (VAT) compliance duties on its behalf.</td>
</tr>
</tbody>
</table>

Table 2. Distribution of Functions and Responsibilities of the NRT and Agent.

<table>
<thead>
<tr>
<th>No.</th>
<th>Taxation Administration Function</th>
<th>Handler</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Preparing purchase and sales information</td>
<td>NRT</td>
</tr>
<tr>
<td>2.</td>
<td>Issuance of Tax invoice</td>
<td>NRT</td>
</tr>
<tr>
<td>3.</td>
<td>Filing of VAT returns</td>
<td>Agent</td>
</tr>
<tr>
<td>4.</td>
<td>Payment/refund of VAT</td>
<td>NRT and/or Agent</td>
</tr>
<tr>
<td>5.</td>
<td>Attending to queries/audit from Tax Authority</td>
<td>NRT and/or Agent</td>
</tr>
<tr>
<td>6.</td>
<td>Payment of penalties and assessments – e.g., late payment, late filing, non-filing, non-payment</td>
<td>NRT and/or Agent</td>
</tr>
<tr>
<td>7.</td>
<td>Documentation retention</td>
<td>NRT and/or Agent</td>
</tr>
</tbody>
</table>
Permanent Establishment criterion (in accordance with the tax treaty ratified into Article 5 paragraph (4) of the UN Model). This practice is found in Trade Representative Office and Regional Representative Office whose activities are limited to cost centres in the form of facilities solely for the purpose of storage, display, maintenance a stock, purchasing goods or merchandise, or for collecting information, advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, or combination of the above for the interests of their head office. Trade Representative Office and Regional Representative Office holding TINs are not for the needs of entities to report corporate tax returns and VAT returns since they are not subjected to corporate tax as well as non V-REN, but rather to their role as withholder of taxes. As an employer, they are required to withhold Income Taxes in accordance with Article 21/26 on remuneration (in cash or in kind) to their employees (Circular Letter of the Director General of Taxation, Number SE-18/PJ.431/1992 dated June 9, 1992). In accordance, with a ruling from the Directorate General of Taxation through its letter number S-979/PJ.313/2004 dated June 9, 1992, the Trade Representative Office and Regional Representative Office bearing TINs are required to collect other withholding Income Taxes, such as Income Taxes as defined in Article 4 paragraph (2), 15, and 23/26.

Regardless whether the administrative breakthrough of the possibility to have VAT-only registration for NRTs which conducts taxable supplies in Indonesia is feasible or not, it should be duly noted that studies on whether such actions may help Indonesia to be more competitive

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**Figure 2. If CE-NRT were Affirmed for VAT-only Registration**

- **GSP in Indonesia**
  - Price of raw material @Rp1,000
  - Output VAT collected by GSP from Indonesian MC is Rp100 (Input VAT for Indonesian MC)

- **GSP abroad**
  - Price of aux. material @IDR500
  - Import VAT is paid by Indonesian MC is Rp50 (Input VAT for Indonesian MC)

- **Sales Company (SC) abroad**
  - No implied VAT in Indonesia (beyond jurisdiction)

- **Consumers abroad**
  - No implied VAT in Indonesia (beyond jurisdiction)

- **Indonesian MC Holding TIN and Registered as V-REN Entrepreneur**
  - VAT calculations for Indonesian MC: Price of finished goods: @IDR5,000
    - Output VAT: 500
    - Input VAT: 150

- **CE-NRT Affirmed as VAT-only Registration in Indonesia and holds V-REN**
  - VAT calculations for CE/NRT: Price of finished goods: @ IDR7,000
    - Output VAT: 700
    - Input VAT: 600

- **Indonesian SC Holding TIN and Registered as V-REN Entrepreneur**
  - VAT calculations for Indonesian SC: Price of finished goods: @ IDR10,000
    - Output VAT: 1,000
    - Input VAT: 700

- **MC abroad**
  - There is implied VAT in Indonesia, i.e. import VAT for consumption of Taxable Goods and settle for self-imposed VAT for service from overseas utilizations. E.g., VAT is 100.

- **Domestic consumers**
in the global market as a manufacturing destination and provide stimulus for the development of supply chain businesses must be carried out. The illustration below (disregarding the provisions of PMK-30/PMK.03/2011) describes the necessity, using similar supply chain flow as in the previous Figure 1.

From the figure above, by VAT-only registration, the CE-NRT (which tolls products using materials purchased in Indonesia from Indonesian MC and shipping it through SC to Indonesian consumers directly from Indonesian factories, for efficiency reasons without considered as conducting business in Indonesia through a Permanent Establishment) may collect VAT from purchasers (including VAT) and credit the input VAT collected by the Indonesian MC and previous chains so that the VAT principle of neutrality towards trade may be maintained. The fact, that in the supply chain above the CE-NRT purchases and sells Taxable Goods within the Indonesian tax jurisdiction, strengthens the reason to affirm it as a VAT Entrepreneur and holds V-REN.

In the supply chain above, the VAT-only registration of CE-NRT would separate the positions of the party legally responsible for collecting VAT (i.e.: CE-NRT) and the party who economically bear the VAT (e.g. the customers). When the MC in Indonesia sells its products to the CE-NRT, the MC collects the VAT from the CE-NRT. Legally, the MC is the party responsible to collect tax with its own consequences if fail to do so. Whereas economically CE-NRT is the party responsible to pay tax.

By affirming a VAT-only registration for the CE-NRT, VAT collection from the MC would proceed without hindrance, thus allowing the general VAT crediting mechanism to proceed in a similar manner. Likewise, the State is not risked with VAT refunds to the MC as it would if sales of taxable goods from MC to CE-NRT is considered as export and subject to a 0% VAT. A VAT-only registration for CE-NRT also provides legal authority to the CE-NRT to collect VAT on transactions downstream of the supply chain so that the excesses of the cascading effect of tax may be eliminated.

Based on the illustrations from the previous figures, I will try to simulate and compare VAT calculations in Indonesia should the CE-NRT is affirmed as a VAT-only registration and hold a V-REN and if it was considered as a Non V-REN Entrepreneur in a supply chain between the MC and SC. The following figures are the results:

From the above, it is found that the aggregated VAT payment after granting the CE-NRT the V-REN through a VAT-only registration is IDR 900, which is the sum of the VAT from the parties involved in the supply chain (=400+200+300). On the other hand, if the CE-NRT is not affirmed as a V-REN, total tax collected from this supply chain activity will only be IDR 200 [= (100)+0+300]. This illustrates that the granting of V-REN Entrepreneur status to the CE-NRT through a VAT-only registration may affect in increasing VAT revenue, while in macro economic level it stimulates the growth in supply chain activities carried out by foreign companies in Indonesia (such as toll manufacturing or contract manufacturing in Indonesia) and contributing the development of the logistics industry in Indonesia.

CONCLUSION

Based on the discussion above, there are two main conclusions of this study: first, a VAT-only registration for NRT – Non permanent Establishment of foreign entities conducting taxable supplies – is a common practice,
even in ASEAN. The various implementations, such as in Thailand and Singapore, require the appointment of a local legal agency as a fiscal agent or the issuance of special approval by taxation authorities as implemented in Vietnam and the Philippines. Second, although it is administratively possible to grant VAT-only registration status to NRTs in Indonesia (as the Law on General Provisions and Taxation Procedures states that entrepreneurs are to register its business to the Directorate General of Taxation at its location of residence or business to be affirmed as a V-REN Entrepreneur), a legal inquiry on the term ‘location of business’ may be interpreted as separated from the location of domicile or residence in line with the requisites of affirmation of Permanent Establishment as V-REN Entrepreneur. In addition to a legal inquiry, affirmation for NRTs as a V-REN entrepreneur without having a Permanent Establishment exposure requires other administrative breakthroughs, likewise the issuance of TIN Trade Representative Office/Regional Representative Office or the Government treasurer to serve as a collector or withholder of Income Taxes.

Prior to the implementation of the VAT-only registration for NRTs policy in Indonesia, decision makers and relevant authorities must carry out a further in-depth study on the matter, especially from the aspects of economy, law, and administration. The studies will be very beneficial in obtaining more accurate information on VAT against international trade neutrality. Many believe that the implementation of VAT-only registration for NRTs could improve supply chain activities and the logistics industry in Indonesia. Effective coordination between ministries, government agencies, and relevant private sector (The Ministry of Trade, National Export Development Board, Chamber of Commerce and Industry, American Chamber of Commerce, British Chamber of Commerce, and other chambers of commerce conducting significant business in supply chains in Indonesia) is a prerequisite to identify the economic potentials and impacts for Indonesia.

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