ACTIVA YURIS
Volume 1 Nomor 2 August 2021
ISSN: 2549-2608 (Online)
DOI: https://dx.doi.org/10.23887/jpp.v53i1.24127

Fintech Lending Tax Planning Strategy Based On Indonesian Taxation Rules

Nafis Dwi Kartiko[1*], Ismi Fathia Rachmi [2]

[1]*Faculty of Law, Pelita Harapan University, Indonesia*
[2]*Faculty of Economics and Communication, Binus University, Indonesia*
**Corresponding author: nafisdwikartiko@gmail.com*

Abstract

Technology is a necessary component of life and has an effect on it. The existence of technology has pushed the economy in a digital direction, which is continuing to grow. This trend is being felt across the economy, including the financial services sector. Fintech is one of the technological advancements in the financial services industry. Indonesia's fintech regulations are less complex than those in other countries. One of the regulatory flaws manifests itself in the area of taxation. As a result, fintech companies must develop a tax planning strategy. The purpose of this paper is to examine tax planning strategies for fintech lending through the lens of qualitative-descriptive research methods. The analysis is based on Indonesia's current legal provisions. The researchers developed tax planning strategies specifically for corporate income tax and value-added tax. The researchers concluded as follows based on the findings of the current regulation study: (1) in terms of value-added tax, fintech lending should pay attention to the limitations of taxable entrepreneurs, the separation of taxable and incentive income, as well as ensuring that input tax credit works properly; and (2) ensure that taxes withheld by third parties are appropriate and have a purpose.

Keywords: Fintech Lending; Tax Planning; Value-Added Tax; Corporate Income Tax

History:
Received: October 9th 2021
Accepted: October 25th 2021
Published: October 31th 2021

Publisher: Universitas PGRI Madiun

Introduction

Technology plays a critical role in the human life journey. Individuals can revolutionize how they communicate and interact in society through the use of technology (Sutton, 2013). The impact of modern technology can be felt in all spheres of life, but particularly in economics. According to Solow (1956) technology is the primary driver of economic growth. Computers and the internet have transformed the economy in terms of how goods and services are produced, the nature of the goods and services offered, and how goods are marketed (Haltiwanger & Jarmin, 2000). Thus, modern technology has the ability to influence and transform economic activity Goldfarb & Tucker (2019) and serves as an entry point into the digital economy.

The digital economy has grown exponentially over the last two decades due to significant technological advancements and the widespread availability of internet connectivity (Sukardi & Jiaqian, 2020). The digital economy can be defined as a portion of the economic output generated by advances in digital technology (Bukht & Heeks, 2017).

Choi & Whinston (2000) assert that technological advancements in this economy will result in increased economic efficiency and welfare as a result of the use of computerized technologies and systems. The digital economy simplifies all transactions by eliminating the need for the seller/service provider and the user to meet face to face. The seller may choose to deliver the goods to the consumer via courier service. Containers for communication between sellers and buyers can also be provided by service providers via social media or third-party platforms (Suwardi et al., 2020).

Indonesia is considered to have enormous potential for the digital economy due to the continued growth of internet users (Sayekti, 2020). The Association of Indonesian Internet Service Providers (APJII) released a survey on Internet user penetration and behaviour in Indonesia on November 9, 2020. The survey covered the period from 2019 to the second quarter of 2020. According to the survey results, internet users accounted for 73.7 per cent of Indonesia's population in the second quarter of 2020. This equates to 196.7 million internet users, while 266.9 million have no internet access (APJII, 2020).

Technological advancements in the digital economy have an effect on all industry sectors, one of which is financial services (Ansori, 2019; Utami & Ekaputra, 2021). Fintech is one type of technological advancement in the financial services industry (Financial Technology). Fintech is a term that refers to a business that combines finance and technology through the use of cutting-edge technology and novel business structures (Maier, 2016). Fintech is viewed as a panacea for public dissatisfaction with the current banking system (Chishti & Barberis, 2016). Fintech is widely regarded as the solution to the financial services industry's dynamic nature (Oshodin et al., 2017).

Fintech lending, or more commonly referred to as peer-to-peer lending, is one type of Fintech in Indonesia. Fintech lending acts as a conduit between borrowers and online lenders. According to a report released by the Financial Services Authority (OJK) on January 28, 2021, Indonesia already has 149 companies registered/licensed as fintech lending operators. Of the 149 companies, 37 are licensed, and 112 are not, according to Financial Services Authority data. Fintech lending in Indonesia consists of 139 companies with conventional business models and ten companies with sharia-compliant business models. Fintech lending in Indonesia managed IDR 155.90 trillion in funds until 2020, involving 716,963 lenders and nearly 43.5 million borrowers (OJK, 2021).

On the other hand, Indonesia's fintech lending regulations remain simpler than those in other countries. One of them is reviewable from a regulatory standpoint in the area of taxation. Until the publication of this paper, there were no technical regulations governing taxation and confirming tax obligations on fintech lending. As a result, fintech lending businesses in Indonesia require a tax planning strategy that complies with local tax authority regulations. The authors of this article will discuss tax planning strategies for income tax and value-added tax. Both types of taxes are preferred because they provide a mechanism for dispute resolution compared to other types of taxes. One point of contention is whether the services provided by fintech lending are included in the category of financial services exempt from VAT. Because fintech lending is a novel type of financial service, the author asserts that there is a potential for it to be subject to value-added tax under applicable law. Corporate income tax planning is also critical, as this tax is related to other current-year income taxes paid. Additionally, the obligation to reduce another party's income tax (e.g., employee income tax) necessitates a strategy that is not subject to administrative sanctions and increases the Company's profit.

Based on the previous description, the current tax legal emptiness in Indonesia must be responded to by the Taxpayer by planning taxes as effectively as possible. Therefore, taxpayers' strategies will be discussed in this paper to provide tangible benefits for taxpayers.

Literature Review

A. *Financial Technology*

There is no consensus on the universal definition of the meaning of Fintech itself (Yuniarti & Rasyid, 2020). According to Scheffel (Schueffel, 2016), Fintech can be interpreted as an innovation in the financial industry that applies technology to improve financial activities. Fintech is growing along with the digital economy, regulation, and information technology (Lee & Shin, 2018). The evolution of fintech development has begun in 1866 and can be divided into three periods, namely fintech generation 1.0, fintech generation 2.0, and fintech generation 3.0 (Abdillah, 2019a). The evolution of fintech development can be summarized and shown in Table 1.

Table 1: Financial Technology Evolution

Generation	Period	Notes	Products/Applications
FinTech 1.0	1866 – 1987	From analogue to digital	– Transatlantic cable – Cable Phone
FinTech 2.0	1987 – 2008	Development of Traditional Digital Financial Services	– Credit Cards – ATM – Electronic Stock Trading – Bank Mainframe Computer
FinTech 3.0 FinTech 3.5	2009 – Present	Democratizing Digital Financial Services Emerging Market	– Startup – Payment Apps – Mobile Wallets – Blockchain – Cryptocurrency

Source: Abdillah (2019b)

Business activities conducted by Fintech in financial services can be classified into five categories as follows (FSB, 2017):

1. Payment, clearing, and settlement

This activity model aims to increase financial inclusion, ensure greater consumer access to payment services, and ensure the payment system's proper functioning. This model can also contribute to managing a large number of transactions and large transfers and settlements between financial institutions.

2. Deposits, lending and capital raising

The most common fintech innovations in this field are crowdfunding and online P2P (peer-to-peer) lending platforms. This application is closely related to financial intermediation.

3. Risk management

Fintech companies participating in the insurance sector can influence the marketing and distribution of insurance and the marketing and distribution of insurance and underwriting, risk pricing, and settlement claims. Risk management also pays attention to the commitment and registration of guarantees and guarantees in credit operations.

4. Market support

The fintech technology section can provide more straightforward or more efficient processes, such as e-aggregators, big data, digital ID verification, data storage, cloud computing, or execution of orders through "smart contracts". Access and contestability of information is an important issue here.

5. Investment management

This dimension includes an e-trading platform that allows consumers to invest directly through computers on all types of assets, smart contracts, and fintech innovations that offer Robo-advice on financial services (financial advisors), including investment and portfolio management.

Fintech itself entered Indonesia recorded since 2006. Indonesia's digital economy's considerable potential makes Fintech grow and proliferate until now (Hadad, 2017). According to Hadad (2017), fintech players in Indonesia are still dominated by payment-based businesses with a percentage of 43%, loan-based businesses with a percentage of 17%, and the rest in the form of aggregators, crowdfunding, and others.

B. *Business Process on Fintech Lending*

Fintech lending in some literature is also referred to as Peer-to-Peer Lending. Within the framework mentioned by the FSB (2017), fintech lending falls into the categories of deposits, lending, and capital raising. According to Agarwal & Zhang (2020), fintech lending began in 2008 due to the financial crisis that hit dunis. This results in fintech lending can proliferate because it has a significant market share. Fintech lending is a platform or intermediary that brings together lenders and borrowers. The platform bridges the meeting of lenders and borrowers without bank intermediaries. To facilitate the understanding of fintech lending business processes can be seen in Figure1.

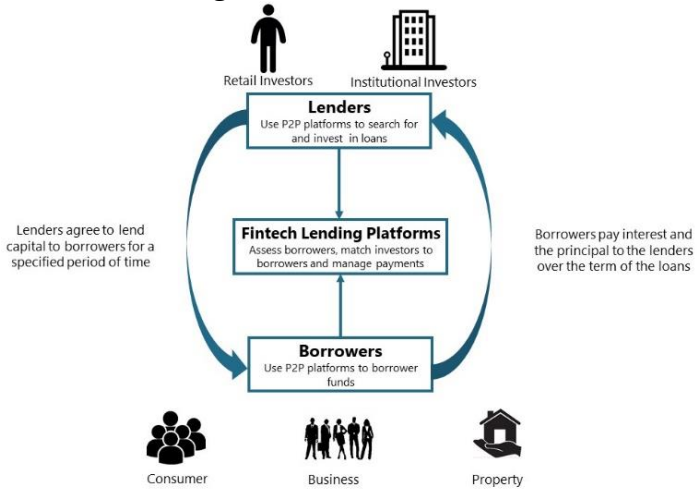

Figure 1. *Fintech Lending Business Process*
Source: author

Fintech Lending involves three parties: lenders, borrowers, and fintech lending platforms (Thakor & Merton, 2018). Like other loan agreements, lenders are responsible for lending capital during the loan term, while borrowers commit to repaying such capital plus interest according to the loan agreement. P2P platforms help facilitate transactions by performing credit scoring on borrowers and matching borrowers with lenders more efficiently and faster (McBride, 2017).

C. *Tax Planning Strategy*

Tax management is a particular business conducted by a tax manager in a company or organization. Any matters related to taxation in a company can be processed effectively, efficiently, and economically, thus contributing to the Company's maximum. One of the functions of tax management is tax planning (Pohan, 2013). Tax planning itself has the meaning of a business that includes tax planning so that the tax paid by the Company is efficient (Lu, 2019). The primary purpose of tax planning is to find loopholes that can be

reached in the corridors of taxation regulations (loopholes) to pay a minimum amount (Samanto & Pitaloka, 2020). However, the purpose of tax planning is not only to minimize the amount of tax. Furthermore, tax planning can balance the benefits against the risks and costs in a business (Karayan & Swenson, 2007).

A long-term plan that anticipates all uncertainties is required to balance the benefits of risk and cost in a business. This is referred to as the tax strategy. (Johnson, 2011). The tax strategy will weigh all the risks and existing tax regulations to determine future tax planning. In value-added tax, what the Company should anticipate is the difference in interpretation of a tax object or not. Although this value-added tax is indirect (imposed on other parties and companies only as responsible), significant rates and sanctions imposed on taxes that are not levied can make the Company have to bear losses. Unlike VAT, corporate income tax is a direct tax charged and paid by the Company. This payment will deduct between the taxes owed for the current year and the taxes paid in the current year. Both VAT and corporate income tax require a mature tax planning strategy to minimize the risks that arise.

Materials and Methods

The research method used possessed descriptive qualitative research with a normative juridical approach. The normative juridical approach is legal research that puts the law as a building system of norms. Qualitative research is research that focuses on the novelty of the problem (Nugrahani, 2014). Research related to tax planning for fintech lending within the tax regulation framework in Indonesia is still small. Researchers try to assess the risks of fintech lending companies in Indonesia to do the proper tax planning. The data used in this study is secondary data. Sekaran & Bougie (2016) defines secondary data as data obtained by researchers from existing sources, so researchers are not the first to get the data. Sekaran & Bougie (2016) further states that secondary data sources can come from company records or documentation, government publications, industry analysis by media, internet pages, and the like. In this study, researchers' secondary data sources include previous scientific research, government publications, and taxation regulations in Indonesia. The analysis contained in this paper is based on current tax laws. Researchers move on from the tax obligations of fintech lending as taxpayers in Indonesia; then, researchers assess the risks that can arise from such obligations.

Results and Discussion

A. *Overview of Fintech Lending Legal Entity Form in Indonesia*

The Financial Services Authority Regulation No. 77/POJK.01/2016 concerning Information Technology-Based Money Lending Services (POJK No. 77/POJK.01/2016) is Indonesia's current regulation governing fintech lending business activities. The Financial Services Authority, as the institution authorized by this regulation, defines Fintech Lending as an implementation of financial services that enables lenders and borrowers to enter into loan agreements in rupiah currency directly via electronic systems connected to the internet network. According to Indonesian law, Fintech Lending platforms are authorized to provide, manage, and operate money lending services through the use of information technology.

According to Article 2 of POJK Number 77/POJK.01/2016, Fintech Lending Operators in Indonesia are limited liability companies or cooperatives that have been approved by the Ministry of Law and Human Rights. Fintech lending operators must be legal entities; they cannot be individuals or non-legal business entities such as Maatschap, Firma, or Commanditaire Vennootschap. According to Indonesian law, a Limited Liability Company is a legal entity that is a capital alliance formed pursuant to an agreement and conducting business activities with a primary capital that is entirely divided into shares. Simultaneously, the Cooperative is defined as a legal entity established by individuals or legal entities

cooperatives, with the wealth of its members used as capital to run the business, and which is guided by the Cooperative's values and principles in meeting the aspirations and needs of the joint economic, social, and cultural aspirations and needs. Technically, the two legal entities are governed by the Republic of Indonesia's Law No. 40 of 2007 on Limited Liability Companies and the Republic of Indonesia's Law No. 17 of 2012 on Cooperatives.

Fintech lending operators with a limited liability company as their legal entity type may be established only by Indonesian citizens and legal entities, as well as by foreign nationals and legal entities. Additionally, article 3 paragraph (2) of POJK Number 77/POJK.01/2016 states that foreign nationals and foreign legal entities may own up to 85 per cent of Fintech Lending Operators, either directly or indirectly. Fintech Lending operators registered as limited liability companies or cooperatives must have a minimum paid-up capital of IDR1,000,000,000.00 at the time of registration. While registering with the authorized authority, the organizer must have at least IDR2,500,000,000.00 in paid-up capital or own capital.

B. *Taxation Aspects of Fintech Lending in Indonesia*

The legal consequences of POJK Number 77/POJK.01/2016 in taxation have a meaningful impact on fintech lending. These impacts are related to the status of taxpayers and their tax obligations. Fintech lending in Indonesia is included in the Corporate Taxpayer based on the Income Tax Law. Aspects of taxation in fintech lending can be reviewed by the parties in it: borrowers, lenders, and fintech lending itself. In this paper, researchers focus on the taxation aspects of fintech lending only.

The taxation aspect of fintech lending can be reviewed from the collection. Fintech lending has a good obligation of self-paid taxes such as corporate taxes and the obligation to make tax deductions against opponents of transactions. Although the deduction against the opponent of the transaction is a tax liability for other parties, the obligation of such deductions has consequences for fintech lending when not carrying out such obligations. These consequences include administrative sanctions (interest, fines, and tax increases).

C. *VAT tax planning strategy*

Under the Value Added Tax Act, financial services are one type of service that is not taxed. However, the explanation in Article 4A paragraph (3) of the VAT Law does not categorize that the service brings lenders together with borrowers to make loan agreements borrowed by fintech lending as a non-taxable service. As a result, fintech lending services as a platform that brings together lenders and borrowers should be taxable under the law. However, not necessarily registered fintech lending must collect VAT on the services provided. There is a limit on the deliveries/turnover of an entity in Indonesia to collect VAT (can be seen in Figure 2).

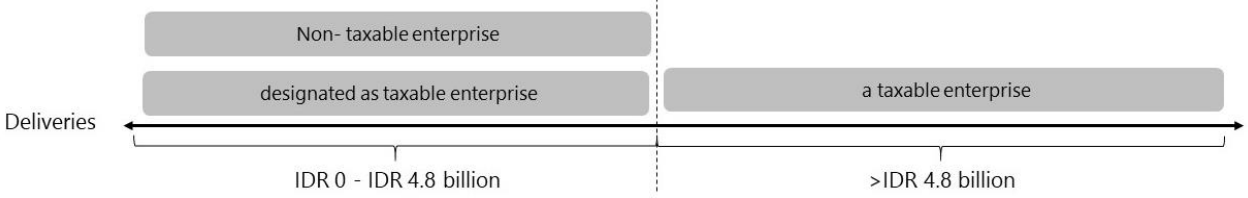

Figure 2. General Framework of Determination as a Taxable Entrepreneur
Source: author

Fintech lending firms that submit taxable services worth less than IDR 4.8 billion may apply to be confirmed as taxable or non-taxable enterprises. Whereas if later existing

regulations state that the services submitted by fintech lending are taxable and the delivery of taxable services above IDR 4.8 billion, then fintech lending providers must immediately register to be confirmed as taxable enterprises. If not registered, the tax office can confirm the position without the approval of fintech lending.

Until this paper was written, there was no affirmation regarding the VAT implications of fintech lending. If the fintech lending services are taxed, the Company must be prepared to collect VAT from customers. On the other hand, when tax rules categorize fintech lending services as non-taxable, businesses are exempt from collecting VAT from customers. The risk arises when fintech lending services are deemed to be vat-exempt. First, the Company should consider its income, which may be required to some extent as a taxable entrepreneur. Second, businesses must distinguish between taxable income and income that qualifies for tax benefits (such as being excluded as tax objects or receiving tax incentives). Third, the Company must be able to ensure the optimal operation of its input tax crediting mechanism.

D. *Income and Corporate tax planning strategy*

Income tax planning for an entity cannot be divorced from the entity's source of income. Fintech lending generates revenue through origination fees, service fees from investors (monthly payments), collection fees on defaulted loans, late payment fees, and management fees. In general, fintech lending is based on fee and commission-based activity. In Indonesia, income tax is composed of monthly and yearly payments. Annual income tax is calculated by subtracting the taxes imposed for the year from the other party's income tax deductions for the year.

The current general rate in Indonesia is set at 22% for the fiscal year 2021 and will be reduced to 20% in the fiscal year 2022. (see Figure 3). Go public companies that meet certain criteria, such as a minimum listing requirement of 40%, and other conditions are eligible for a 3 per cent tax reduction from the standard rate, resulting in an effective tax rate of 19% for the fiscal year 2021 and 17 per cent for fiscal years 2022 and beyond. For corporate taxpayers with annual revenue of less than Rp 50 billion, a 50% discount on the standard tax rate is available on the taxable income component of gross revenue up to Rp 4.8 billion.

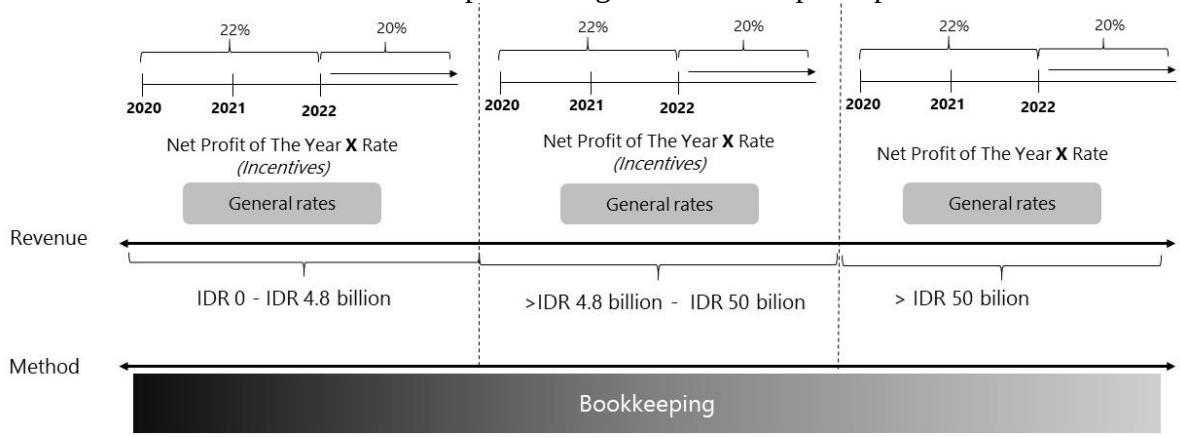

Figure 3. General Framework of Corporate Income Tax Aspects
Source: author

Corporate income tax is calculated by taking into account the expenses incurred to earn income in the current year. Thus, the Company must distinguish between deductible and non-deductible expenses under applicable tax provisions. Additionally, the Company should consider tax deductions made by third parties. The Company shall ensure that the other party withholds tax under applicable laws and pays it to the state.

Employee income tax is another type of income tax. Although this tax imposes obligations on the Company, the law also imposes obligations and sanctions on the Company. As a result, businesses must choose the appropriate method for this type of tax planning. The gross-up method is a well-known technique for optimizing profit after tax. This method enables businesses to reduce the burden of income tax when calculating taxable income.

Conclusion

The existence of fintech lending in POJK Number 77/POJK.01/2016 has a tax impact, specifically through the establishment of fintech lending as a corporate taxpayer. Fintech lending, as a corporate taxpayer, will face unique treatment in a variety of ways, one of which is the imposition of administrative sanctions. Today, the legal void surrounding fintech lending tax regulations continues to confuse the imposition of taxes. As a result, it is necessary to develop a tax planning strategy to mitigate future risks associated with existing policies. As taxable entrepreneurs, fintech lending operators can attest to the risk associated with value-added tax. This risk can be mitigated by the following: (1) the Company must monitor its income to the extent that it is required as a taxable entrepreneur, (2) the Company must be able to distinguish between taxable income and income that qualifies for a tax facility (is excluded as a tax object, or receives a tax incentive), and (3) the Company must be able to ensure that the input tax crediting mechanism operates optimally. The risk associated with corporate income tax is the withholding of taxes by third parties. This risk can be mitigated by ensuring that the other party's taxes withheld are accurate and paid to the state treasury.

Acknowledgments

Thank God Almighty, Lecturers, and our colleagues at work and on campus who have supported the completion of this paper.

References

Abdillah, L. (2019a). An Overview of Indonesian Fintech Application. *The First International Conference on Communication, Information Technology and Youth Study (I-CITYS2019), Bayview Hotel Melaka, Melaka (Malacca), Malaysia*.

Abdillah, L. (2019b). *An Overview of Indonesian Fintech Application*. 8–16.

Agarwal, S., & Zhang, J. (2020). FinTech, lending and payment innovation: A review. *Asia-Pacific Journal of Financial Studies*, *49*(3), 353–367.

Ansori, M. (2019). Perkembangan dan Dampak Financial Technology (Fintech) terhadap Industri Keuangan Syariah di Jawa Tengah. *Wahana Islamika: Jurnal Studi Keislaman*, *5*(1), 31–45.

APJII. (2020). *Buletin APJII*. https://apjii.or.id/downfile/file/BULETINAPJIIEDISI74November2020.pdf

Bukht, R., & Heeks, R. (2017). Defining, conceptualising and measuring the digital economy. *Development Informatics Working Paper*, *68*.

Choi, S.-Y., & Whinston, A. B. (2000). The future of the digital economy. In *Handbook on electronic commerce* (pp. 25–52). Springer.

FSB. (2017). FinTech credit : Market structure, business models and financial stability implications. *Committee on Global Financial System*.

https://www.fsb.org/2017/05/fintech-credit-market-structure-business-models-and-financial-stability-implications/

Goldfarb, A., & Tucker, C. (2019). Digital economics. *Journal of Economic Literature*, *57*(1), 3–43. https://doi.org/10.1257/jel.20171452

Hadad, M. D. (2017). Financial Technology (Fintech) di Indonesia. *Kuliah Umum Tentang Fintech, Indonesia Banking School*.

Haltiwanger, J., & Jarmin, R. S. (2000). Measuring the digital economy. *Understanding the Digital Economy: Data, Tools and Research*, 13–33.

Johnson, P. (2011). Defining a tax strategy. In *The IFS Green Budget: February 2011*. The Institute for Fiscal Studies. https://doi.org/10.1920/co.ifs.2011.0117

Karayan, J. E., & Swenson, C. W. (2007). *Strategic business tax planning*. Wiley Online Library.

Lee, I., & Shin, Y. J. (2018). Fintech: Ecosystem, business models, investment decisions, and challenges. *Business Horizons*, *61*(1), 35–46. https://doi.org/https://doi.org/10.1016/j.bushor.2017.09.003

Lu, Y. (2019). *Research on Enterprise Effective Taxation and Its Planning*.

McBride, S. (2017). *NoPeer-to-Peer Lending Investor Guide Innovating an Ancient Credit Model*. https://43cyu21tdz6o41fs2y3e45y1-wpengine.netdna-ssl.com/wp-content/uploads/2017/10/P2P-Lending-Guide-Final-Edition.pdf

Nugrahani, F. (2014). Metode penelitian kualitatif. *Solo: Cakra Books*.

Pohan, C. A. (2013). *Manajemen Perpajakan: Strategi Perencanaan Pajak dan Bisnis*. PT Gramedia.

Samanto, H., & Pitaloka, N. (2020). Analysis On The Influence Of Tax Planning And Deferred Tax Burden On Profit Management (Study Case In The Manufacturing Company Listed On Indonesia Stock Exchange Year 2014–2018. *International Journal of Economics, Business and Accounting Research (IJEBAR)*, *4*(02).

Sayekti, N. W. (2020). Strategi Pengembangan Pariwisata Halal Di Indonesia. *Kajian*, *24*(3), 159–172.

Schueffel, P. (2016). Taming the beast: A scientific definition of fintech. *Journal of Innovation Management*, *4*(4), 32–54.

Sekaran, U., & Bougie, R. (2016). *Research methods for business a skill building approach*. John Wiley & Sons.

Solow, R. M. (1956). A contribution to the theory of economic growth. *The Quarterly Journal of Economics*, *70*(1), 65–94.

Sukardi, I., & Jiaqian, S. S. (2020). *Taxing the digital economy in Indonesia*. Indonesian Tax Review. https://www.internationaltaxreview.com/article/b1ngz37n2ts6ct/taxing-the-digital-economy-in-indonesia

Sutton, B. (2013). *The effects of technology in society and education*.

Suwardi, S., Budiandri, A., Cinthya, S., & Ghifri, N. A. (2020). Memajaki Transaksi Ekonomi Digital: Studi Kasus Di India, Perancis, Dan Australia. *Jurnal Pkn (Jurnal Pajak Dan Keuangan Negara)*, *2*(1), 1–12.

Thakor, R. T., & Merton, R. C. (2018). *Trust in lending*. National Bureau of Economic

Research.

Utami, A. F., & Ekaputra, I. A. (2021). A paradigm shift in financial landscape: encouraging collaboration and innovation among Indonesian FinTech lending players. *Journal of Science and Technology Policy Management*. https://doi.org/https://doi.org/10.1108/JSTPM-03-2020-0064

Yuniarti, S., & Rasyid, A. (2020). Consumer Protection in Lending Fintech Transaction in Indonesia: Opportunities and Challenges. *Journal of Physics: Conference Series*, *1477*(5), 52016.