



## JURIDICAL STUDY ON THE PHENOMENOLOGY OF DIGITAL CRYPTOCURRENCY ASSETS FROM A LEGAL PERSPECTIVE TAX COLLECTION AND SHARIA QANUN IN INDONESIA

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### Abstract

*This study analyzes the phenomenology of cryptocurrency digital assets from the perspective of taxation and sharia law in Indonesia. Cryptocurrency, as a digital innovation based on blockchain technology, has received significant attention both as an alternative investment and a means of transaction. However, its existence poses regulatory challenges, especially in terms of taxation and compliance with sharia principles. This study uses a normative legal method with a legislative and conceptual approach to understand how tax regulations and sharia law regulate cryptocurrency transactions in Indonesia. Data were obtained through literature studies, analysis of relevant legal documents, fatwas, and Qanuns, and interviews with legal and sharia experts. The results of the study show that the Indonesian government has begun to regulate taxes on cryptocurrency transactions through several policies, although there are still challenges in their implementation, such as assessing transaction values and accurate reporting. From a sharia perspective, views on cryptocurrency vary. Some scholars accept cryptocurrency as halal, while others consider it haram due to speculative reasons and the lack of clear underlying assets. In Aceh, as a province with full implementation of sharia law, regulations related to sharia financial transactions are more complex. This study recommends harmonization between tax regulations and sharia law to create legal certainty and justice for all parties involved. The government is expected to strengthen regulations and supervision of cryptocurrency transactions and conduct socialization and education to the public regarding tax obligations and sharia principles related to cryptocurrency. With a comprehensive and integrative approach, it is hoped that a cryptocurrency regulatory system can be created that is fair, efficient, and in accordance with positive and sharia legal values in Indonesia.*

**Keywords:** *Legal Studies, Digital Assets, Tax Collection Law, Sharia Law*

## 1. INTRODUCTION

### A. Background

Cryptocurrency is a digital innovation that has had a significant impact on various aspects of life, including the global financial system. Since the introduction of Bitcoin in 2009, cryptocurrency has grown rapidly and has attracted the attention of many parties, including the government, industry players, and academics. However, along with its development, various challenges and questions have emerged regarding regulation, especially in the context of taxation and sharia law in Indonesia.<sup>1</sup> Cryptocurrency is a digital asset that uses blockchain technology to record every transaction made. Its

<sup>1</sup>Harahap, BA, Idham, PB, Kusuma, ACM, & Rakhman, RN (2017). The development of financial technology related to central bank digital currency (CBDC) on the transmission of monetary and macroeconomic policies. *Bank Indonesia*, 2(1), 80.

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main characteristics are decentralization, transparency, and high security. Some examples of popular cryptocurrencies besides Bitcoin are Ethereum, Ripple, and Litecoin.

The popularity of cryptocurrency is driven by its ability as an alternative investment, payment instrument, and innovative technology that has the potential to change traditional transaction methods. In Indonesia, regulations regarding cryptocurrency are still in the development stage. The government through the Directorate General of Taxes has issued several policies related to taxes on cryptocurrency transactions. For example, Circular Letter No. SE-26/PJ/2018 concerning Guidelines for the Implementation of Taxpayer Compliance Monitoring of Cryptocurrency Trading Activities. This policy emphasizes that cryptocurrency transactions are subject to income tax in accordance with applicable provisions. However, there are still many challenges in its implementation, such as the problem of assessing transaction values and accurate reporting.<sup>2</sup> A legal study of the phenomenology of cryptocurrency digital assets from the perspective of tax collection laws and Sharia Law in Indonesia produces several key conclusions:

**1) Duality of Law and Regulation:**

- a. **Tax Collection Act:** From a tax law perspective, cryptocurrency is treated as a digital asset that can be taxed, either in the form of income tax from trading profits or transaction taxes such as VAT. However, the challenge that arises is how to ensure proper taxation given the anonymous and decentralized nature of cryptocurrency.
- b. **Sharia Law:** From a Sharia perspective, there are ethical and legal considerations regarding the use of cryptocurrencies, especially regarding the principles of justice, clarity, and freedom from elements such as *riba*, *gharar*, and *maysir*. There is debate among scholars regarding the suitability of cryptocurrencies with Sharia law, with some more conservative views considering them inappropriate, while others open the possibility of their use in accordance with Islamic principles.

**2) The Need for Harmonization and Clear Guidelines:**

In Indonesia, where positive law and Sharia law can interact, it is important to develop regulations that accommodate both perspectives. The government and religious authorities need to work together to formulate clear guidelines on how cryptocurrencies can be treated in the tax system and under Sharia law.

**3) Implementation and Monitoring Challenges:**

- a. **Tax:** Tax monitoring and enforcement of cryptocurrency transactions poses challenges, especially in terms of tracking transactions and determining value for tax purposes. This requires sophisticated technology and adaptive regulation.<sup>3</sup>
- b. **Sharia:** In the context of Sharia, the main challenge is to ensure that any use of cryptocurrency does not violate Islamic principles. This includes strict supervision of the types of transactions and how cryptocurrency is used in economic activities.

**4) The Importance of Education and Deep Understanding:**

- a. To achieve effective regulation, both in terms of tax and Sharia, a deeper understanding of cryptocurrency is needed among authorities, policymakers, and the wider public. Education and training related to digital technology and Islamic financial principles will be essential.<sup>4</sup>

<sup>2</sup> Yusuf, M. (2024). Law Enforcement against Violations of Land and Building Tax Payers at the Kendari City Regional Revenue Agency. *Arus Jurnal Sosial dan Humaniora*, 4(1), 97-115.

<sup>3</sup>Payamta, CPA (2023). *Digital Business: Managing Accounting, Tax, and Audit Successfully*. Nas Media Pustaka.

<sup>4</sup>Fattah, H., Riadini, I., Hasibuan, SW, Rahmanto, DNA, Layli, M., Holle, MH, ... & Marzuki, SN (2022). *Fintech in Islamic Finance: Theory and Practice*. Publica Indonesia Utama.



Indonesia, as the country with the largest Muslim population in the world, has a special approach to financial aspects that are in accordance with sharia principles. Cryptocurrency from a sharia perspective is still a matter of debate. Some scholars consider it halal, while others consider it haram because it is speculative and does not have a clear underlying asset. In Aceh, for example, as the only province in Indonesia that fully implements sharia law, there is a Qanun that regulates financial transactions according to sharia. Acceptance or rejection of cryptocurrency from a sharia perspective is greatly influenced by the interpretation of the characteristics and working mechanisms of cryptocurrency.

## 2. FORMULATION OF THE PROBLEM

1. How is the Legal Study of the Phenomenology of Cryptocurrency Digital Assets from the Perspective of Tax Collection Law?
2. How to Apply Law to the Phenomenology of Cryptocurrency Digital Assets in the Perspective of Sharia Law

## 3. RESEARCH PURPOSES

1. To find out how the legal study of the phenomenology of digital cryptocurrency assets is carried out from the perspective of the Tax Collection Law?
2. To find out how the law is applied to the phenomenology of digital cryptocurrency assets from the perspective of the Sharia Qanun?

## 4. THEORITICAL REVIEW

Research on the legal study of the phenomenology of cryptocurrency digital assets in the perspective of the Tax Collection Law and Sharia Qanun in Indonesia involves several relevant legal and regulatory aspects. The following is a theoretical framework that can be used as a basis for this study:

### 1. Understanding Cryptocurrency

- a. **Cryptocurrencies** is a digital asset that uses cryptographic technology for security, decentralization, and transaction control. Examples of cryptocurrencies include Bitcoin, Ethereum, and others.
- b. **Main characteristics** cryptocurrency includes decentralization (not controlled by a central authority such as a central bank), anonymous, and blockchain-based transactions.

### 2. Legal Perspective in Indonesia on Cryptocurrency

- a. **Cryptocurrency Regulation in Indonesia:** The Financial Services Authority (OJK) and Bank Indonesia have an important role in regulating the use of cryptocurrency. Bank Indonesia has issued a regulation prohibiting the use of cryptocurrency as a means of payment.
- b. **Bappebti Regulations:** The Commodity Futures Trading Regulatory Agency (Bappebti) regulates cryptocurrency as a commodity that can be traded on futures exchanges, with certain conditions.

### 3. Legal Review of the Tax Collection Law

- a. **Legal Basis of Taxation in Indonesia:** Taxation of digital assets, including cryptocurrencies, is regulated by various regulations, including the Income Tax (PPh) and Value Added Tax (PPN) Laws.
- b. **Taxation of Cryptocurrency:** The Indonesian government has initiated steps to tax cryptocurrency transactions. This includes income tax on profits earned from cryptocurrency trading as well as VAT on certain transactions.

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c. **Challenges in Tax Supervision and Collection:** Given the decentralized nature and anonymity of cryptocurrencies, monitoring these transactions poses a complex challenge for tax authorities.<sup>5</sup>

**4. Qanun Syariah Perspective on Cryptocurrency**

a. **Sharia Law in Indonesia:** In some areas, especially in Aceh, Sharia law is implemented through Qanun. The study of cryptocurrency from a Sharia perspective includes an analysis of whether cryptocurrency meets Sharia criteria, such as not containing usury, gharar (uncertainty), and maysir (speculation).

b. **DSN-MUI Fatwa:** The National Sharia Council of the Indonesian Ulema Council (DSN-MUI) can issue a fatwa on the suitability of cryptocurrency with Sharia principles. Until now, there has been no definitive fatwa on cryptocurrency, but fatwas on digital finance and other sharia transactions can be used as a reference.

c. **Implications of Sharia Law:** This study needs to look at how these digital assets are recognized in the context of sharia transactions and whether there are specific forms of cryptocurrency that can be considered halal or haram under Islamic law.

**5. Phenomenology of Digital Assets and Its Implications for Regulation**

a. **Phenomenology of Digital Assets:** A phenomenological approach can be used to understand how society and individuals in Indonesia view and use cryptocurrency. This includes understanding risk perceptions, investment opportunities, and legal and religious views on cryptocurrency.

b. **Implications for Regulation:** This study should explore how the phenomenology of cryptocurrency use influences and is influenced by existing regulations, and how these regulations can evolve to accommodate technological developments and societal needs.

**5. RESEARCH METHODS**

The type of research is normative juridical on the phenomenology of cryptocurrency digital assets in the perspective of the Tax Collection Law and Sharia Qanun in Indonesia, the research method used must be adjusted to examine various legal aspects, social phenomenology, and sharia interpretations related to cryptocurrency. The following are research methods that can be used:<sup>6</sup>

**1. Research Approach**

a. **Normative Juridical Approach:** This study uses a normative legal approach, which focuses on the study of legal documents, regulations, and legal literature relevant to cryptocurrency in Indonesia. This approach examines applicable legal norms to understand how the law regulates cryptocurrency, including in the context of taxation and sharia law.

b. **Empirical Approach:** To complement the normative approach, this study can also use an empirical approach by looking at how cryptocurrency is treated in practice, as well as understanding the phenomenology of its use in Indonesian society. This can be done through interviews, surveys, or observations.

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<sup>5</sup> Djati, RM, & Dewi, TIDWP (2024). Regulation of Payment Methods with Cryptocurrency in International Business Transactions. *Ethics and Law Journal: Business and Notary*, 2(2), 91-106.

<sup>6</sup> Anggraeni, RM (2022). Agrarian Conflict of Bener Purworejo Dam Construction: Normative Legal Perspective. *El-Dusturie*, 1(1).





2. Data source
  - a. **Primary Data:**
    - 1) **Interview with Experts:** Conduct in-depth interviews with legal experts, tax regulators, and sharia experts to gain a deep understanding of the application of the law to cryptocurrencies.
    - 2) **Survey or Questionnaire:** Conducting surveys of cryptocurrency market players, tax accountants, and the public to determine their perceptions, understanding, and compliance with existing regulations.
  - b. **Secondary Data:**
    - 1) **Legal Document Study:** Researching laws, government regulations, fatwas, and qanuns related to cryptocurrency, taxation, and sharia law.
    - 2) **Literature and Academic Journals:** Collecting and analyzing academic research, journal articles, and literature related to cryptocurrency regulation and Islamic legal perspective.
3. Data collection technique
  - a. **Documentation:** Collecting data from various legal documents, such as the Income Tax Law, Bappebti Regulations, and Sharia Qanun. This includes document interpretation and legal analysis of existing regulations.
  - b. **In-depth Interview:** Conducting semi-structured interviews with legal experts, regulators, and scholars to gain in-depth insights into the interpretation and application of cryptocurrency regulations.
  - c. **Survey:** Distributing questionnaires to the cryptocurrency user community, tax accountants, and the general public to obtain data on perceptions and compliance with applicable laws.
4. Data Analysis Techniques
  - a. **Qualitative Analysis:**
    - 1) **Content Analysis (Content Analysis):** Conduct content analysis of legal documents and interview data to understand and interpret existing regulations and their application to cryptocurrencies.
    - 2) **Phenomenology:** Analyze data from interviews and surveys to understand individuals' experiences and perceptions of cryptocurrency use in the context of law and sharia.
  - b. **Normative Analysis:**
    - 1) **Regulatory Analysis:** Reviewing the suitability between existing regulations and practices in the field and their consistency with the principles of sharia law.
    - 2) **Comparative Law:** Conducting a comparative study between cryptocurrency regulations in Indonesia and other countries that have similar legal systems, especially in the context of the application of sharia law and taxation.

## 6. DISCUSSION

### 1. Legal Study of the Phenomenology of Cryptocurrency Digital Assets in the Perspective of Tax Collection Law

#### a. Definition and Characteristics of Cryptocurrency

Cryptocurrency is a digital or virtual currency that uses cryptography for transaction security. Unlike conventional currencies, cryptocurrency is decentralized, meaning it is not controlled by a central authority such as a central bank. The main technology behind

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- cryptocurrency is blockchain, a digital ledger that records all transactions transparently and securely. Some of the main characteristics of cryptocurrency are:<sup>7</sup>
- 1) **Decentralization:** There is no third party controlling.
  - 2) **Anonymity:** Users can make transactions without revealing their identity.
  - 3) **Security:** Using cryptography to secure transactions.
  - 4) **Transparency:** All transactions are recorded in a publicly accessible blockchain.
- b. Tax Regulations on Cryptocurrency in Indonesia
- In Indonesia, regulations regarding cryptocurrency are still in the development stage. The government through the Directorate General of Taxes has issued several policies related to taxes on cryptocurrency transactions. Some of these policies include:
- 1) **Circular No. SE-26/PJ/2018:** Provides guidelines for the implementation of taxpayer compliance monitoring of cryptocurrency trading activities. This circular confirms that cryptocurrency transactions are subject to income tax in accordance with applicable provisions.
  - 2) **Tax Regulations Regarding Transaction Value Assessment:** The main challenge in taxing cryptocurrency transactions is assessing the transaction value and accurate reporting. Given the volatility of cryptocurrency prices, determining the transaction value at the time of tax reporting is complex.
- c. Challenges in Implementing Cryptocurrency Taxation
- The implementation of cryptocurrency tax regulations faces several major challenges, namely:
- 1) **Price Volatility:** Highly volatile cryptocurrency prices make it difficult to accurately assess transaction values.
  - 2) **Compliance and Reporting:** Many taxpayers do not yet understand their tax obligations on cryptocurrency transactions and how to report them.
  - 3) **Technology and Surveillance:** Advanced technology and effective surveillance systems are required to accurately monitor cryptocurrency transactions.
- d. Sharia Perspective on Cryptocurrency
- In the perspective of sharia, cryptocurrency has sparked debate among Islamic scholars and economists. Some of the main views regarding cryptocurrency in sharia are:
- 1) **Halal View:** Some scholars consider cryptocurrency as halal because it meets several sharia principles such as transparency and fairness. They see it as a legitimate means of transaction and investment as long as it is not used for haram activities.<sup>8</sup>
  - 2) **Haram View:** Other scholars consider cryptocurrency haram due to its speculative nature and lack of a clear underlying asset. They worry that cryptocurrency could be used for unethical purposes such as money laundering and terrorism financing.
- e. Cryptocurrency Regulation in the Context of Sharia Law in Aceh
- Aceh, as the only province in Indonesia that fully implements sharia law, has a special approach to sharia financial transactions. In the context of cryptocurrency, the Qanun Syariah in Aceh regulates financial transactions that are in accordance with sharia principles. However, there are no specific provisions that explicitly regulate the use of cryptocurrency in financial transactions in Aceh.

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<sup>7</sup>Hasani, MN, Ramadhan, M., Mariyani, K., Setiawan, R., & Sucidha, I. (2022). Analysis of cryptocurrency as an alternative tool for investing in Indonesia in the digital currency bitcoin. *Scientific Journal of Business Economics*, 8(2), 329-344.

<sup>8</sup>Taufiqurrohman, KNA, & Adab, P. *Cryptocurrency: A Sharia Economic Perspective*. Adab Publisher.



f. **Policy Recommendations**

To create legal certainty and justice in cryptocurrency regulation in Indonesia, a harmonious policy recommendation is needed between taxation and sharia regulations. Some policy recommendations that can be taken are:

- 1) **Strengthening Regulation and Supervision:** The government needs to strengthen regulation and supervision of cryptocurrency transactions to ensure taxpayer compliance.
- 2) **Socialization and Education:** Increase socialization and education to the public regarding tax obligations and sharia principles related to cryptocurrency.
- 3) **Development of Sharia Legal Framework:** Develop a clear sharia legal framework regarding cryptocurrency to provide definite guidance for Muslims in Indonesia.

2. **Application of Law to the Phenomenology of Cryptocurrency Digital Assets in the Perspective of Sharia Law**

Cryptocurrency has become an integral part of the development of financial technology in the world. In Indonesia, especially in Aceh which fully implements sharia law through Qanun Syariah, the application of law to cryptocurrency is important to ensure its compliance with sharia principles. This discussion will highlight how sharia law in Aceh can be applied to regulate the use of cryptocurrency.<sup>9</sup>

a. **Principles of Islamic Finance**

To understand the application of the law to cryptocurrencies, we must understand the relevant basic principles of Islamic finance:

- 1) **Prohibition of Usury (Interest):** Transactions containing interest are not permitted.
- 2) **Prohibition of Gharar (Uncertainty):** Transactions that involve high speculation or significant uncertainty are not permitted.
- 3) **Prohibition of Maysir (Gambling):** All forms of gambling are prohibited.
- 4) **Zakat:** Wealth must fulfill the obligation of zakat.
- 5) **Transparency and Fairness:** Every transaction must be carried out transparently and fairly.

b. **Evaluation of Cryptocurrency in Sharia Perspective**

Cryptocurrencies can be evaluated based on the following sharia principles:

- 1) **Usury:** Cryptocurrency is basically interest-free because it does not involve conventional banking institutions. However, activities such as cryptocurrency loans with fixed interest should be avoided.
- 2) **Gharar:** Cryptocurrencies are often considered to contain gharar due to high price volatility and speculation. However, if used as a legal tender and with a good understanding of the risks, gharar can be minimized.
- 3) **Maysir:** The use of cryptocurrency for speculative activities such as margin trading and derivatives can be considered as maysir. Therefore, such activities should be avoided.
- 4) **Zakat:** Cryptocurrency holders must pay zakat if the asset reaches the nisab and has been owned for one Hijri year (haul).
- 5) **Transparency and Fairness:** The blockchain technology underlying cryptocurrencies offers high transparency as all transactions are recorded in an immutable public ledger.<sup>10</sup>

c. **Implementation of Sharia Law in Aceh on Cryptocurrency**

- 1) **Regulation and Supervision:**

<sup>9</sup>Haikal, M. (2023). Islamic Law Review of Bitcoin Buying and Selling Practices. MAQASIDI: Journal of Sharia and Law, 1-14.

<sup>10</sup>Najibulloh, IK, & Rahmalia, L. (2024). APPLICATION OF BLOCKCHAIN TECHNOLOGY IN ISLAMIC FINANCE INDUSTRY: CHALLENGES AND OPPORTUNITIES. j-ebi: j. economics. nana, 3(01).

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- a) The Aceh government through sharia institutions must establish special regulations for cryptocurrency, ensuring that transactions are carried out in accordance with sharia principles.
  - b) Effective oversight is needed to monitor cryptocurrency trading platforms and ensure compliance with established regulations.
- d. Fatwa and Guide:**
- 1) The Sharia Council in Aceh needs to issue a clear fatwa on the use of cryptocurrency, explaining what types of transactions are permitted and which are prohibited.
  - 2) This fatwa must be based on in-depth research on blockchain technology and the working mechanisms of cryptocurrencies.
- e. Education and Socialization:**
- 1) The Aceh government and sharia institutions must educate the public on how to use cryptocurrency in accordance with sharia.
  - 2) Outreach programs may include seminars, workshops, and educational materials explaining sharia principles in the context of cryptocurrency.
- a. Challenges and Solutions**
- 1) **Price Volatility**The volatility of cryptocurrency prices is a major challenge in implementing sharia because it can contain gharar. The solution is to limit the use of cryptocurrency to stable and non-speculative transactions.
  - 2) **Anonymity and Security**Anonymity in cryptocurrency transactions can be a problem because it can potentially be used for illegal activities. Using a registered and verified wallet can be a solution to this problem.
- b. Infrastructure and Knowledge:**
- 1) Technological infrastructure and public knowledge about cryptocurrency are still limited. The government and sharia institutions need to work together to improve infrastructure and educate the public.

## 7. CLOSING

### A. Conclusion

- 1) Legal Study of the Phenomenology of Cryptocurrency Digital Assets in the Perspective of Tax Collection Law, this study is that although cryptocurrency offers a lot of potential as an investment and transaction tool, comprehensive tax regulations and effective enforcement are needed. The government needs to immediately adopt clear regulations to ensure that these digital assets are not used for tax evasion purposes, as well as to provide legal certainty for market players.
- 2) Application of Law to the Phenomenology of Cryptocurrency Digital Assets in the Perspective of Qanun Syariah, this study is that the application of law to cryptocurrency in the perspective of Qanun Syariah still requires further study and careful consideration. Although there is potential to integrate cryptocurrency into the Sharia financial system, clear regulations and guidance from religious authorities are needed to ensure that the use of cryptocurrency remains in accordance with Sharia principles and does not lead to violations of Islamic law.





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