

Reconstruction of the tax dispute resolution system to achieve legal justice in Indonesia

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ABSTRACT

The tax dispute resolution system in Indonesia plays a strategic role in maintaining a balance between the interests of tax authorities and the rights of taxpayers as part of the principle of legal justice in a country governed by the rule of law. However, the current system still faces various problems, including overlapping authorities between the Directorate General of Taxes and the Tax Court, the institutional dependence of the Tax Court on the Ministry of Finance, and a lengthy settlement process that often causes legal uncertainty for taxpayers. This situation indicates the need to reconstruct the tax dispute resolution system to make it more independent, efficient, and oriented towards substantive justice. This study uses a normative juridical method with a statute, conceptual, and comparative approach. The analysis is conducted on legal norms governing tax courts and dispute resolution practices in several comparative countries. The results show that the tax dispute resolution system in Indonesia does not fully reflect the principles of the rule of law and legal justice as mandated by Article 24 of the 1945 Constitution. Reconstruction is needed by strengthening the institutional position of the Tax Court under the Supreme Court, establishing an Alternative Dispute Resolution (ADR) mechanism for tax disputes, simplifying the objection and appeal processes, and digitizing tax court administration. Through these measures, it is hoped that the tax dispute resolution system in Indonesia can better guarantee certainty, fairness and legal protection for all parties.

Keywords: Tax Disputes, Legal Reconstruction, Legal Justice, Tax Courts, Institutional Reform

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1. INTRODUCTION

Taxes are one of the main sources of state revenue, playing an important role in funding national development and creating prosperity. With sufficient tax revenue, the government can provide public services such as roads, bridges, education, and healthcare, carry out infrastructure development, and maintain economic stability through fiscal policy (Ho et al., 2023). The implementation of fair and trustworthy tax governance is an integral part of realizing the principles of a welfare state and social justice as stipulated in the Indonesian legal system. In addition to being used to collect funds, taxes also create justice. This means that the tax system not only collects based on a person's ability to pay but also regulates how wealth is distributed and reduces social inequality. Thus, taxes are not only used to finance the government but also serve as public policy tools to achieve welfare and social justice. Taxes serve two important roles: as a source of state revenue and as a tool for distributing economic resources more fairly. With this function, taxes are an important part of inclusive and equitable development. The right tax policy can foster a successful relationship between the government and citizens to create sustainable social welfare. From a financial perspective, taxes help the state provide public services, such as education, healthcare, infrastructure, and social protection (Wogan, 2019). This service can support economic growth and welfare. In the context of economic development, optimal tax revenue indicates the country's financial independence and is an indicator of the stability of the country's economy. Thus, the effectiveness of tax collection depends on the government's ability to manage revenue efficiently (Young, 1988) and transparently. From a social justice perspective, taxes designed to be fair and balanced, such as progressive rates, transparent policies, and public participation, can help reduce income and wealth inequalities (Saputra & Rahmat, 2025).

Fair taxation is not only a civic duty but also a means of distributing wealth equitably, thereby increasing public trust in the government and promoting voluntary tax compliance. When the public believes that the tax system is fair and honest, the government's legitimacy in collecting taxes will also be stronger. However, the success of taxes in fulfilling their role in promoting fairness is highly dependent on supporting systems such as financial transparency, efficient management of state expenditures, and an accountable tax administration system. Without good financial management, the tax system can create new inequalities and undermine public trust. Therefore, improving the quality of tax administration and increasing institutional capacity are important steps to ensure that taxes can be a fair tool in Indonesia's legal and economic systems (Afonso, 2021).

In the Indonesian tax court system, the Tax Court plays a very important role as an institution authorized to resolve disputes between taxpayers and tax authorities. Its existence is regulated by Law No. 14 of 2002 concerning the Tax Court, which aims to provide a fair, transparent, and accountable means of resolution for taxpayers who feel aggrieved by tax administration decisions. More than just a place to settle disputes, the Tax Court also functions as a key tool in upholding the principle of fiscal justice, where taxes are collected proportionally according to each individual's economic capacity and balanced with the benefits obtained from the budget. However, the application of fiscal justice faces various challenges, such as an imbalance between the rights and obligations of taxpayers, the possibility of discriminatory treatment in tax collection, and the risk of abuse of authority by tax officials. In this case, the function of the Tax Court becomes very important as a protector of justice and legal compliance with taxation policies and practices in Indonesia.

The tax dispute resolution system in Indonesia still faces several major problems that affect its effectiveness and fairness to taxpayers. One of the biggest problems is the excessive time it takes to resolve cases, from the objection stage to the Tax Court's decision. This lengthy process is usually caused by overlapping duties between the Directorate General of Taxes (DGT) and the Tax Court in evaluating the main issues of the dispute, as well as limited resources for tax judges (Silalahi, 2025). As a result, many cases take more than two years to reach a final decision, which clearly contradicts the principle of swift and simple justice, as stipulated in Article 2 of Law Number 48 of 2009 concerning Judicial Authority (UU No. 48 Tahun 2009). In addition, the Tax Court's lack of independence is an important issue. According to Constitutional Court Decision Number 26/PUU-XXI/2023, the Ministry of Finance previously

supervised the Tax Court in various aspects, such as organization, administration, and finance. However, this was deemed inconsistent with the principle of judicial power, which must remain independent. This structure could lead to conflicts of interest because the leading institution (the Ministry of Finance) could also be involved in tax disputes (Nasyira, 2024). Therefore, the Constitutional Court decided to transfer the authority to supervise the Tax Court to the Supreme Court to make the institution more independent.

Another weakness is the overlap between the authority and administrative procedures of fiscal and judicial institutions. In practice, dispute resolution processes often focus more on formal (administrative) aspects than substantive justice. This causes an imbalance in the position between taxpayers and tax authorities, as administrative decisions are often used as a strong basis by the government. This situation shows that improvements are needed in the tax dispute resolution system to make it simpler, more efficient, and oriented towards true justice. Therefore, reform through the implementation of Constitutional Court Decision Number 26/PUU-XXI/2023 is an important opportunity to strengthen independence, effectiveness, and transparency in tax adjudication while ensuring balanced legal protection between taxpayers and the state.

2. METHOD

This study uses a normative legal approach to analyze the tax dispute resolution system in Indonesia, particularly in the context of reconstruction and the achievement of legal justice (Negara, 2023). This approach was chosen because the research focused on the norms, institutional structures, and legal mechanisms governing the tax dispute resolution process, including the changes stipulated in the Constitutional Court Decision Number 26/PUU-XXI/2023. The legal sources used in this study consist of two parts: (i) primary materials covering laws governing tax issues, procedural regulations, and Constitutional Court Decision Number 26/PUU-XXI/2023. This decision explains the transfer of authority over the Tax Court from the Ministry of Finance to the Supreme Court as part of the judicial power system (*Pembinaan Organisasi, Administrasi, dan Keuangan Pengadilan Pajak*, 2023). (ii) Secondary materials include scientific journals, institutional analysis articles, and empirical studies discussing the independence of tax courts and changes to the tax dispute resolution system (Rifandanu, 2024). Data collection techniques were carried out through literature studies by accessing online journal databases that provide full articles.

The analysis was conducted using a normative qualitative method, employing a statutory and conceptual approach, namely, describing written norms (such as laws and Constitutional Court decisions) and then comparing them with the concepts of legal justice, judicial independence, and the effectiveness of tax dispute resolution mechanisms in their application. Furthermore, this study evaluates the impact of Constitutional Court Decision Number 26/PUU-XXI/2023 on the reform of the tax dispute resolution institution, specifically whether changes in the management structure and regulation of this institution can improve procedural and substantive justice for taxpayers and the State. With this research framework, the study provides recommendations for improving the tax dispute resolution system to make it fairer, more efficient, and in line with the principles of the rule of law. This system must ensure that tax dispute resolution institutions have sufficient independence, fair access mechanisms for taxpayers, and clear and transparent legal certainty in Indonesia.

3. RESULT AND DISCUSSION

Tax law in Indonesia is a part of public law that regulates the relationship between the government (tax authorities) and taxpayers (Wila, 2024). This law also contains mandatory rules, namely, the obligation to pay taxes. Owing to its mandatory nature and its relation to state revenue, tax disputes must be resolved based on clear rules and strong institutions (Anugrahdi, 2023). The history of tax dispute resolution in Indonesia shows several changes in the involvement of specialized institutions. Initially, the Tax Advisory Council (MPP) was responsible for handling tax disputes. It functioned as an internal administrative forum within the tax agency to review complaints from taxpayers (Paramitha, 2008). Then came the idea of

establishing a special institution in the form of a Tax Court (BPP) or Tax Dispute Settlement Agency (BPSP) in Finally, this special institution was established permanently in accordance with Law Number 14 of 2002, concerning Tax Courts.

Tax dispute resolution in Indonesia is carried out through the Tax Court, which is regulated by Law Number 14 of 2002 concerning the Tax Court. This law establishes the Tax Court as a judicial institution tasked with exercising judicial power for taxpayers or tax guarantors who seek justice in resolving tax disputes (Basri, et al., 2022). However, the law states that technical guidance in judicial administration is carried out by the Supreme Court, while guidance related to organization, administration, and finance is carried out by the Ministry of Finance (Erwiningsih, 2022). This situation has resulted in a dual structure of guidance and supervision, which differs from the single-roof system that applies to the general judiciary, religious, military, and administrative courts, as stipulated in Law No. 48 of 2009 on Judicial Authority.

In addition to the issue of independence, there is a discrepancy between Law No. 14 of 2002 on Tax Courts and Law No. 48 of 2009 on Judicial Authority. The Law on Judicial Authority stipulates that all judicial bodies are under the Supreme Court in a unified judicial system (one roof system) (UU No. 48 Tahun 2009). However, the Tax Court Law still places some supervisory functions under the Ministry of Finance. This normative disharmony causes hierarchical inconsistency and violates the principle of *lex superior derogat legi inferiori*, whereby higher laws should be the reference in the implementation of lower ones. In practice, this has an impact on the weak effectiveness and legal certainty of tax dispute settlements. Due to this dualism, there is a possibility of structural incompatibility and conflicts of authority between the executive (through the Ministry of Finance) and the judiciary (through the Supreme Court) in managing tax courts. This raises questions about the extent to which the independence and impartiality of these institutions can be maintained, as their administrative and financial management remains under the executive branch's control (Situmeang, 2022). The position of the Tax Court, which has not been clearly defined within one of the judicial systems as stipulated in Article 24 of the 1945 Constitution, creates an unclear legal framework and triggers the risk of differing interpretations of the activities of institutions.

This problem is addressed through the concepts of the rule of law, separation of powers, and independence of the judiciary. This study assesses the position of the Tax Court under the Ministry of Finance as a form of constitutional distortion. Constitutional Court Decision Number 26/PUU-XXI/2023 confirmed that the transfer of the Tax Court to the Supreme Court must be carried out in stages and completed no later than December 31, 2026. The theory of the rule of law is the main philosophical foundation (grand theory) because this study discusses the importance of the supremacy of law, judicial independence, and the protection of citizens' constitutional rights. In a state governed by the rule of law, all state authorities (including the executive) must obey the law and may not interfere with the judicial power. The theory of the rule of law used in this study is that of Immanuel Kant, F. J. Stahl, and A.V. Dicey (Rule of Law). In the conception of the rule of law, all actions of state administrators, whether legislative, executive, or judicial, must be subject to and obey the law of the land. The main principles of the rule of law include the supremacy of the law, equality before the law, protection of human rights, and the independence of the judiciary from interference by other branches of government. This study is directly related to the principle of the rule of law because it examines the position of the Tax Court, which has been in an ambivalent position between executive and judicial powers. The fact that the organizational, administrative, and financial management of the Tax Court is still carried out by the Minister of Finance indicates a potential violation of the principle of the rule of law, especially regarding the independence of the judiciary. Therefore, this study uses the theory of the rule of law to assess whether the current structure and position of the Tax Court are in accordance with the basic principles of the Indonesian rule of law, as stipulated in Article 1, paragraph (3) and Article 24 of the 1945 Constitution.

The theory of separation of powers analyzes the structure of the relationship between the executive and judicial branches, especially in the context of dualism in the administration of the Tax Court. This theory demands that judicial power be independent and not subject to the influence of other powers. The theory of separation of powers, as introduced by Locke (1960) and Montesquieu (1989), has become an intermediate theoretical framework used to analyze the relationship between powers within the state,

particularly between the executive and judicial powers. In the Indonesian context, this principle is reflected in a constitutional structure that strictly separates the executive branch (the President and his ministers) from the judicial branch (the Supreme Court and lower courts) (Kurdi & Mazjah, 2025). The Tax Court, as a forum for resolving legal disputes, should not be under the influence of the executive branch, even though it is a special tribunal. However, the dualism of guidance between the Supreme Court and the Ministry of Finance has created potential conflicts of interest and violations of the principle of the separation of powers. In this study, the theory of separation of powers is used to demonstrate the incompatibility of the Tax Court's structure with the Indonesian constitutional system, as well as to support the importance of integration into the Administrative Court (PTUN), which is fully under the authority of the judiciary.

The theory of judicial independence focuses on the practical independence of judicial institutions in carrying out their duties and functions without pressure, influence or interference from any party. Bagir Manan argues that without an independent judiciary and free judges, there can be no democracy or rule of law. This theory asserts that judicial independence is not limited to technical judicial aspects (decisions), but also includes non-judicial aspects such as organizational management, budgeting, and administration (Asshiddiqie, 2007). In the context of the Tax Court, executive interference in the form of guidance from the Minister of Finance creates a conflict of interest because the ministry is a disputing party in most tax cases. Therefore, this theory is used to criticize the practice of dual supervision and encourage the reconstruction of the supervision system so that it is fully under the Supreme Court to ensure the complete independence of the judiciary. This is in line with the principles of fair trials, accountability, and freedom from political or bureaucratic intervention.

According to Shimon and Christopher (2012), judicial independence consists of two major components: (1) Individual Independence: the personal freedom of judges from internal and external pressure in deciding cases; and (2) Institutional Independence: the structural freedom of judicial institutions from the control of other powers, including in terms of organization, administration, and budgeting.

Shetreet emphasized that the separation of the judiciary from the executive branch is an absolute requirement for a democratic state governed by the rule of law (UU no. 14 tahun 2022). In this context, the Indonesian Tax Court, which is still administratively supervised by the Ministry of Finance, has failed to fulfill the principle of institutional independence, as it opens up the potential for conflicts of interest, given that the Ministry of Finance is often a party to disputes.

The institutional reconstruction that places the Tax Court entirely under the Supreme Court is a legal response to the dualism of supervision that has arisen since Law No. 14 of 2002 on the Tax Court came into effect. By law, this law divides the task of technical supervision to be handled by the Supreme Court, while organizational, administrative, and financial supervision is taken over by the Ministry of Finance, which in practice creates two parties with equal standing, thereby potentially reducing the freedom of tax judges in carrying out their duties. The concept of reconstruction requires that all aspects of development, such as technical, administrative, and financial, be integrated into the Supreme Court's structure. This is so that the organizational structure is in accordance with the constitutional principle that judicial power is under one roof, so that there is no overlap or conflict of interest between the functions of government (Ministry of Finance) and the judiciary (the Supreme Court). The full transfer of development to the Supreme Court is also supported by policy and legal decisions that point to the concept of a single roof system, which emphasizes that the integration of development will strengthen transparency, accountability, and public trust in tax decision-making. From a constitutional theory perspective, this merger is in line with the principle of judicial independence that has long been emphasized by constitutional experts, namely that the separation of executive administrative duties from judicial power is necessary so that judges can freely examine and make decisions without pressure or interference from the executive branch. Institutional reconstruction is not merely a technical change, but a systemic change aimed at strengthening legal guarantees in enforcing tax justice.

4. CONCLUSION

The tax dispute resolution system in Indonesia still faces a number of problems, such as excessively long proceedings, overlapping jurisdictions, and a lack of independence on the part of the tax court. This situation results in low legal certainty and justice for taxpayers. Constitutional Court Decision Number 26/PUU-XXI/2023 marks a significant turning point in strengthening the independence of the Tax Court by transferring its supervision from the Ministry of Finance to the Supreme Court. This effort is expected to bring about a more professional, open, and intervention-free tax court system. To increase the effectiveness of this decision, it is necessary to review Law No. 14 of 2002 concerning the Tax Court so that it is in accordance with the principle of independent judicial power.

To create a fair and effective system, sustainable strategic measures are needed. First, the government and the House of Representatives must immediately revise the Tax Court Law to ensure compliance with the principle of checks and balances and to accommodate the results of Constitutional Court Decision No. 26/PUU-XXI/2023. Second, the Supreme Court, as the supervisory institution, must strengthen the case administration and management system to make it more efficient through the application of digital technology and simplification of procedures. Third, the quality of tax judges and tax consultants must be continuously improved so that their understanding of tax law, both substantive and formal, becomes more in-depth and consistent. In this way, improving the tax dispute resolution system is not merely an administrative reform, but also an important part of efforts to achieve true legal justice for all Indonesians.

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Notes on Contributors

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