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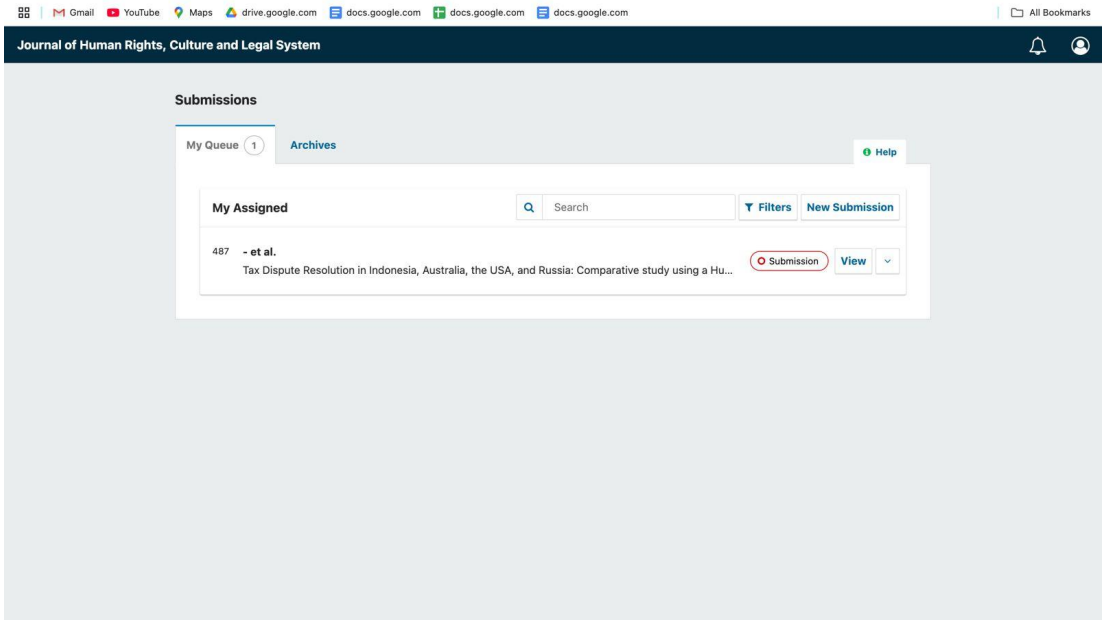


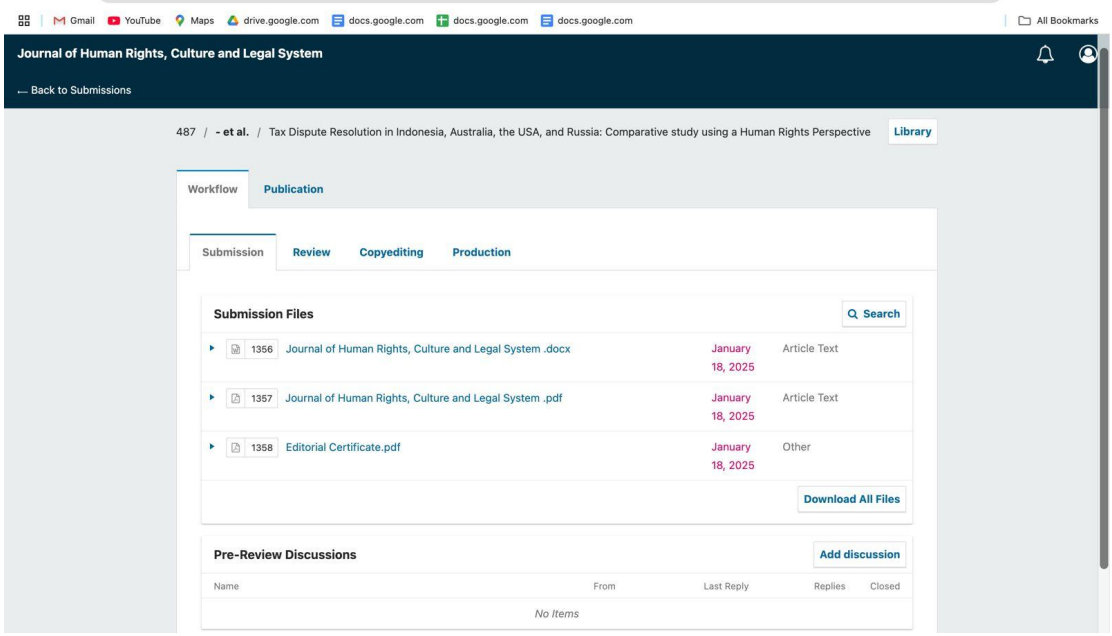

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# Comparison of Tax Dispute Resolution in Indonesia with Australia, the USA, and Russia from a Human Rights Perspective

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# Comparison of Tax Dispute Resolution in Indonesia with Australia, the USA, and Russia from a Human Rights Perspective

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ABSTRACT

The position of the Fiscus in Indonesia, which holds absolute power in determining the amount of tax and issuing decisions on taxpayer objections according to Law Number 28 of 2007, does not provide fair legal certainty and does not reflect the principle of equality before the law as regulated in Article 27, Paragraph (1) of the 1945 Constitution. This is due to the inherent risk of tax penalties ranging from 30% to 100% resulting from unsuccessful objections and appeals. This study aims to compare tax dispute resolution in Indonesia with that of Australia, USA, and Russia from a human rights perspective. It employed the normative legal research method with literature studies using legislation and conceptual approaches. The findings indicated that the United States of America has three tax justice agencies with the principle of information openness, Australia provides neutral mediation through the ATO and internal and external settlement channels, and Russia has 4 levels of tax justice institutions with the principle of independence. Meanwhile, Indonesia needs to improve fiscal justice by fulfilling taxpayers' rights such as the rights to information, direction, hearing, appeal, certainty, privacy, and confidentiality. Principles of fairness, effectiveness, and ease of administration are important to increase tax capacity and ensure that taxpayers can carry out their obligations well.

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# 1. Introduction

Taxes are a public contribution to the state based on state regulations which are used for financing state activities.[1] Taxes are important instruments in a country's financial system. Apart from being the main source of revenue for the government, they also have a strategic role in encouraging economic development and social welfare.[2]

Considered as a critical sector for the continuity of development,[3] the construction of public facilities such as roads, bridges, schools, police stations, hospitals, and health centers is financed through tax revenue.[4]

The tax sector has a significant role in reducing both the volume and ratio of the budget deficit.[5] Taxation is an obligation that must be obeyed and is subject to binding regulations.[6] It is imposed without the expectation of direct rewards and is utilized to meet the state's essential needs for the welfare of the people.[7] Taxes have a coercive nature, as established by law,[8] which includes legal sanctions in the form of administrative and criminal sanctions.[9] Despite the coercive nature of taxation, tax authorities should not abuse the taxes paid by taxpayers.[10]

Taxes play a substantial and decisive role in the future, particularly regarding the planning and allocation of financial resources for national development. Therefore, it is imperative for the government to give serious attention to the taxation sector.[11]

Tax imposition plays a critical role in regulating a country's finances, including those of Indonesia. In fact, taxes are the primary source of income for the nation. For instance, in 2022, tax revenues contributed IDR 1.5 trillion to a total state revenue of IDR 2.2

[1] Ramadhania Deninta Sismi, and Dwi Martani, 'Analysis of thin capitalization on listed companies in Indonesia and Australia', *E-book Urbanizing the Regional Sector to Strengthen Economy and Business toRecover from Recession,* ISBN: 978-1-032-30070-2 (2023), 232-246 https://doi.org/10.1201/9781003303336-27

[2] Daryanti, Asriana, and Astuty Hasti, 'Etika dan Keadilan Pajak dalam Perspektif Islam', *Jurnal Akmen*, 21.1 (2024), 61-70 https://doi.org/10.37476/akmen.v21i1.4611

[3] Resmaya Agnesia Mutiara Sirait, 'Pelaksanaan Kebijakan Penyanderaan Pajak (Gijzeling) Dilihat Dari Perspektif Hak Asasi Manusia', *Journal Sasi*, 26.1 (2020), 9-19 https://doi.org/10.47268/sasi.v26i1.192

[4] Artha Polma Naibaho, Nyoman Serikat P , and Budi Ispriyarso, 'Paksa Badan (Gijzeling) Sebagai Instrumen Penagihan Pajak (Kajian Yuridis Dari Perspektif Hukum Pidana)', *Diponegoro Law Journal,* 5.3 (2016), 1-16 https://doi.org/10.14710/dlj.2016.11959

[5] Ismiani Aulia, and Nera Marinda Machdar, 'Upaya Hukum Dalam Penyelesaian Sengketa Pajak Pada Pengadilan Pajak: Suatu Perspektif Keadilan', *Sinomika Journal*, 2.3 (2023), 603-620 https://doi.org/10.54443/sinomika.v2i3.1471

[6] Mirna Palipuri Amir, Jaqueline E. M. Tangaku, and Michael Miran, 'Analisis Tax Planning Pada Pt. Hutama Surya Perdana Di Mamuju', *JAIM: Jurnal Akuntansi Manado*, 2.2 (2021), 240-248 https://doi.org/10.53682/jaim.v2i2.1323

[7] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[8] Syanti Dewi, Widyasari Widyasari, and Nataherwin Nataherwin, 'Pengaruh Insentif Pajak, Tarif Pajak, Sanksi Pajak Dan Pelayanan Pajak Terhadap Kepatuhan Wajib Pajak Selama Masa Pandemi Covid-19', *Jurnal Ekonomika dan Managemen*, 9.2 (2020), 108-124 https://dx.doi.org/10.36080/jem.v9i2.1248

[9] Orin Ndari Ervana, 'Pengaruh pemeriksaan pajak, keadilan pajak dan tarif pajak terhadap etika penggelapan pajak (Studi kasus pada kantor pelayanan pajak pratama Klaten)', *Jurnal Akuntansi Pajak Dewantara,* 1.1 (2019), 80-92 https://doi.org/10.24964/japd.v1i1.802

[10] Ni Putu Purnama Sari, I Made Sudiartana, and Ni Luh Gde Mahayu Dicriyani, 'Pengaruh Keadilan Pajak, Sistem Perpajakan, Tarif Pajak Dan Sanksi Perpajakan Terhadap Persepsi Wajib Pajak Badan Mengenai Etika Penggelapan Pajak (Tax Evasion)', *Kumpulan Hasil Riset Mahsiswa Akuntansi (KHARISMA),* 3.1 (2021), 140-149 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1687

[11] Wa Mareza Dwi Nugraheni, Hadi Pramono, Ani Kusbandiyah, and Nur Isna Inayati, 'Pengaruh Perencanaan Pajak, Aset Pajak Tangguhan, Beban Pajak Tangguhan, Free Cash Flow, Profitabilitas dan Kepemilikan Manajerial yang Mempengaruhi Manajemen Laba (Studi Kasus pada Perusahaan Sektor Consumer Non-Cyclicals periode 2019-2021)', *JEMSI (Jurnal Ekonomi, Manajemen, Dan Akuntansi*), 9.3 (2023), 628-641 https://doi.org/10.35870/jemsi.v9i3.1106

trillion.[12]This shows how important tax contributions are in generating income that supports government functions and development programs.[13]

Given the significant and decisive role of the taxation sector in the implementation of national development in the Republic of Indonesia, it is reasonable for the government to pay attention to this sector, including undertaking legislative reforms. This includes regulatory reforms in taxation, specifically regarding General Provisions and Tax Procedures, abbreviated as KUP. These provisions were originally governed by Law Number 6 of 1983 and have been amended several times, first by Law Number 9 of 1994, then by Law Number 16 of 2000, and most recently by Law Number 28 of 2007..[14]

The tax system in Indonesia is based on the self-assessment principle,[15] where the government gives trust and responsibility to taxpayers to calculate, pay, and report their tax obligations independently through Tax Return (SPT) to the Directorate General of Taxes according to the type of tax and the time limit established by applicable laws and regulations.[16] The implementation of self-assessment is a crucial and progressive effort towards efficient tax collection. This system aims to streamline tax administration, ensuring it is organized, controlled, straightforward, and easily comprehensible for members of the tax-paying community.[17] Under the self-assessment system, the authority to determine the amount of tax owed rests entirely with the taxpayer.[18]

Tax disputes are conflicts that arise between individuals or entities[19] obligated to pay taxes and the authorities or tax regulators,[20] resulting from decisions that may be challenged through appeal procedures or legal actions in the Tax Court..[21] An appeal is a legal course of action available to a taxpayer or tax representative against a decision that can be contested in accordance with applicable tax laws and regulations.[22] This includes

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[12] Mardhiyah Alfath Annisaa, and Siti Nuryanah, 'Evaluasi Manajemen Perpajakan Atas Pajak Pertambahan Nilai (Studi Kasus Pada Perusahaan Start-Up X)', *Journal of Economics and Business UBS,* 12.4 (2023), 2532-2549 https://doi.org/10.52644/joeb.v12i4.408

[13] Anindya Nariswari, Sarah Selli Ardelia, Puji Wahono, and Indra Pahala, 'Manajemen Perpajakan: Analisis Perencanaan Pajak Pertambahan Nilai di Indonesia (Kajian Literatur)', *Jurnal Ekonomi dan Manajemen Teknologi(EMT) KITA*, 8.3 (2024), 854-863 https://doi.org/10.35870/emt.v8i3.2607

[14] Rustian Mushawirya, 'The Position Of The Tax Jurisdiction In The System Judicial In Indonesia', *Journal of Administration Law*, 5.1 (2024), 92-105 https://doi.org/10.22437/mendapo.v5i1.31383

[15] Maralus Samosir, and Yusuf Gunawan, 'Analisa Yuridis Sengketa Pajak Pada Pengadilan Tata Usaha Negara Terhadap Surat Ketetapan Pajak Studi Kasus Putusan Pengadilan No 606 K/Tun/2022', *JUSAPAK Jurnal Studi Akuntansi Pajak Keuangan*, 2.1 (2024), 8-22 https://doi.org/10.61696/jusapak.v2i1.218

[16] Ardiansyah, and Wahyudin, 'Politik Hukum Tindak Pidana Perpajakan dalam Perspektif Restorative Justice', *Mimbar Keadilan Journal For Law & Justice,* 16.2 (2023), 221-233 https://doi.org/10.30996/mk.v16i2.7977

[17] Priyambodo Adi, Pajri Arifpadilah, Achmad Iyyan N, Nur Fadhilla Erlis, and Yogi Syahputra Alidrus, 'Penerapan Self-Assestment System Dalam Npwp Sebagai Upaya Progresif Terhadap Eksistensi Pajak Di Indonesia', *Jurnal Indonesia Sosial Teknologi*, 4.7 (2023), 865-874 https://doi.org/10.59141/jist.v4i7.646

[18] Dedi Sugiyanto, 'Analisis Yuridis Pasal 5 Ayat 2 Undang-Undang Republik Indonesia Nomor 14 Tahun 2002 Tentang Pengadilan Pajak Ditinjau Dari Pasal 24 Ayat 1 Dan Ayat 2 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Al-Adl: Jurnal Hukum,* 13. 1 (2021), 116-134 https://doi.org/http://dx.doi.org/10.31602/al-adl.v13i1.4248

[19] Budi Ispriyarso, Athasius P. Bayuseno, and Harlida Abdul Wahab, 'Legal Reformation of Tax Court in Indonesia: Reforming Legal Culture, Institutional and Legislative Aspects', *International Journal of Criminology and Sociology*, 10.1 (2021), 722-728 https://doi.org/10.6000/1929-4409.2021.10.86

[20] Wahyu Kartika Aji, Ristanti Khusnul Khosafiah, Teta Dirgantara Jusikusuma, and Ferry Irawan, 'Penyelesaian Sengketa Pajak Atas Gugatan Dan Sanggahan: Suatu Perspektif Keadilan', *Jurnal Pajak Indonesia (Indonesian Tax Review),* 6.1 (2022), 80-88 https://doi.org/10.31092/jpi.v6i1.1601

[21] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan,* 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

[22] Wahyudi, 'Membangun Lembaga Keberatan Pajak Independen Dan Adil', *Journal of Law and Nation (JOLN),* 1.1 (2022), 48-57 https://joln.org/index.php/joln/article/view/8

legal actions pertaining to enforced tax collection based on the provisions outlined in the Tax Collection Law, as previously discussed by the author.

Based on the latest statistics released by the Tax Court Secretariat on the website www.setpp.kemenkeu.go.id, a total of 12,714 tax signatures were submitted to the Tax Court in 2023. The Appellees/Defendants included the Director General of Taxes, the Director General of Customs and Excise, and the Regional Government, with 10,038, 2,615, and 61 respective defense files. The number of incoming dispute files in 2023 decreased significantly compared to the 14,709 files submitted in 2022.[23] However, this decline in incoming dispute files did not result in a reduction in the production of decisions by judges at the Tax Court. In fact, in 2023, the Tax Court achieved a historic milestone by resolving the most disputes in its history, amounting to 16,278 dispute files. This figure represents an increase over the previous year's resolution of 15,561 dispute files.[24]

In the field of taxation, efforts to resolve tax disputes can be conducted through administrative objections, appeals to the Tax Court, lawsuits to the Tax Court, and judicial review to the Supreme Court.[25] Furthermore, it can be stated that, at the Judicial Review (PK) stage, taxpayers have prevailed in recognizing uniform costs as deductible expenses from gross income.[26]

Not all decisions in tax law are objects of tax disputes, but tax withholding agents, tax bearers, tax collectors, and tax officials are often involved as subjects of these disputes.[27] Tax compliance by taxpayers is the context where disputes most often occur.[28] Tax disputes typically occur because of different interpretations and treatments between commercial accounting and fiscal accounting.[29]

In principle, there are two types of tax disputes that can arise. The first occurs when an individual fails to comply with tax regulations; the second is when someone does something but does not comply with tax regulations. If there is a discrepancy in the implementation of tax collection, the taxpayer has the right to raise objections and appeal against the tax decision imposed by the taxpayer according to tax law.[30]

The tax court is an administrative institution that specializes in the field of taxation. However, there are judicial obstacles in the process of resolving tax disputes, such as limited ordinary legal remedies and extraordinary legal remedies, such as judicial review to

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[23] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8*.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[24] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8*.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[25] Anisya Sukmawati, and Aan Bukhori, 'Pelaksanaan Penyelesaian Sengketa Banding Pajak Pertambahan Nilai Di Pengadilan Pajak (Studi Kasus Pada PT. MPFI)', *VOK@SINDO : Jurnal Ilmu-Ilmu Terapan dan Hasil Karya Nyata*, 9.1 (2021), 12-27 https://doi.org/10.21776/ub.vokasindo.2021.009.1.2

[26] Johannes Aritonang, 'Analisis sengketa pajak atas biaya seragam (studi kasus atas Putusan Peninjauan Kembali Nomor 1710/B/Pk/Pik/2016)'. *Simposium Nasional Keuangan Negara*, 1.1 (2018), 497-518 https://api.semanticscholar.org/CorpusID:188956935

[27] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[28] Sudarsono, Tunggul Anshari Setia Negara, and Imam Koeswahyono, 'Tax dispute settlement mediation arrangements in the future tax court', *International Journal of Research in Business and Social Science,* 11.5 (2022), 503-511 https://doi.org/10.20525/ijrbs.v11i5.1867

[29] Wellia Novita, Rida Rahim, and Fajri Adrianto, 'Sengketa Pajak dalam Perspektif Wajib Pajak (Studi Kasus Restitusi Pajak ADHI-IBG, KSO)', *Owner: Riset & Jurnal Akuntansi,* 6.3 (2022), 2594-2601 https://doi.org/10.33395/owner.v6i3.950

[30] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan,* 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

the Supreme Court. Cassation is not available. There are lawsuits, appeals, and judicial review to the Supreme Court as legal remedies.[31]

The different interpretations of laws, which can lead to unfair tax collection and conflicts between taxpayers and authorized officials, can result in tax disputes.[32] If the two do not reach the same agreement and understanding, then the problem can be resolved through the Tax Service Office (KPP) to the Tax Court.[33]Ironically, if the objection is rejected or partially accepted, taxpayers as seekers of justice and legal certainty will be subject to fines.

The amount of the fine is set at 30% of the remaining tax debt based on the Objection Decision. When submitting objections and appeals to a court in the United States of America, the taxpayer must choose between a large dispute (above $50,000) and a small dispute (under $50,000). However, tax court judges can also impose fines on taxpayers who sue in court outside the US tax court if the taxpayer does not have a strong legal basis and is just trying to avoid paying taxes with a maximum fine of US $ 10,000. To prevent taxpayers or third parties from filing lawsuits simply to delay or evade tax payments, tax court judges are given the authority to impose sanctions on disorganized taxpayers.

Meanwhile in Australia, the Australian Taxation Office (ATO) is the institution responsible for tax collection. In addition, the ATO also has responsibility for administering the Australian Business Register (ABN), administering the higher education loan program, managing payments, administering the pension system, and acting as the operational manager of the Australian Government Assessment Office. The ATO is under the auspices of the Treasurer of the Commonwealth of Australia.

The tax dispute resolution process in Australia is similar to that in Indonesia. The Australian Tax Office (ATO) offers mechanisms for taxpayers to challenge decisions with which they disagree. However, the ATO employs In-house Facilitation to facilitate mediation for taxpayers operating small businesses. In this facilitation process, taxpayers are mediated by a facilitator from the ATO, who is a professional and independent individual not involved in the prior decision. These facilitators are impartial and neutral.

The tax appeals procedure in Australia consists of a series of steps that taxpayers can undertake to challenge decisions made by the Australian Taxation Office (ATO). If a taxpayer disagrees with the ATO's assessment or decision regarding their tax obligations, they have the right to appeal and request a review of that decision. The appeals process in Australia encompasses both internal and external resolution pathways.

The process of resolving tax disputes in Russia involves several stages and authorized institutions. The initial stage is Filing an Objection (Protest), during which taxpayers submit an objection to the Russian Federal Tax Service (FNS), providing supporting documents. The next step is the Consideration of Objections, wherein the FNS reviews the objections and conducts a re-examination. If the objection is upheld, the FNS will issue a new decision. If the objection is rejected, the taxpayer may proceed to Filing an Appeal by appealing to

[31] Winahyu Erwiningsih, 'Implementasi Penyelesaian Sengketa Pajak Pada Pengadilan Pajak Indonesia', *Justicia Sains: Jurnal Ilmu Hukum,* 6.2 (2022), 248-262 https://doi.org/10.24967/jcs.v6i2.1585

[32] Supriyadi, Beny Setiawan, and Randy Matius Bintang, 'Evaluasi Lembaga Keberatan Dalam Penyelesaian Sengketa Pajak Yang Adil Di Direktorat Jenderal Pajak', *Jurnal Pajak Indonesia (Indonesian Tax Review), 2*.2 (2018), 6-19 https://doi.org/10.31092/jpi.v2i2.640

[33] Rasyidah Che Rosli, Lai Ming Ling, and Roslani Embi, 'Tax malfeasance of high net-worth individuals in Malaysia: tax audited cases', *Journal of Financial Crime*, 25.1 (2018), 155-169 https://doi.org/10.1108/JFC-11-2016-0070

the Federal Tax Court (FTC) of Russia. During the Consideration of the Appeal, the FTC re-examines the case, and if the appeal is accepted, the FTC will issue a new decision. If the appeal is rejected, the taxpayer can pursue a Filing of Cassation by appealing to the Supreme Court of Russia. The authorized institutions involved in the process of resolving tax disputes in Russia include the Federal Tax Service (FNS), responsible for managing and supervising tax matters; the Federal Tax Court (FTC), which handles tax disputes; and the Supreme Court of Russia, which oversees cassation appeals.

Based on the background outlined above, the formulation of this research is as follows: How do the legal systems for resolving tax disputes compare in Australia, the United States, Russia, and Indonesia? Additionally, what efforts need to be made to enhance fiscal justice in Indonesia based on the results of a comparative study of these four countries (Indonesia, Australia, the United States, and Russia) to achieve justice for taxpayers and the Indonesian populace from a human rights perspective?

## 2. Research Method

This research is normative legal research.[34] It employed legal, conceptual, comparative legal, and Systematic Literature Review approaches.[35] Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as published research articles, with a focus on the theory discussed within a certain scope.[36] A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approaches.[37] This research uses a legislative approach by studying statutory regulations related to comparisons pf the resolutions of tax objections and appeals as well as other issues related to this research topic.

This research employed the document study method as the data collection strategy.[38] The data used includes secondary data from literature studies,[39] and primary legal materials, such as laws and legal theories,[40] and secondary legal materials which consist of books, articles, and research findings.[41]

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[34] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum,* 30.1 (2022), 131-46 https://doi.org/10.22219/ljih.v30i1.20764

[35] Jamal Wiwoho, Irwan Trinugroho, Dona Budi Kharisma, and Pujiyono Suwadi, 'Islamic crypto assets and regulatory framework: evidence from Indonesia and global approaches', *International Journal of Law and Management,* 66.2 (2024). 155-171 https://doi.org/10.1108/IJLMA-03-2023-0051

[36] Farhan Saputra, and Habzi Ali, 'Penerapan Manajemen Poac: Pemulihan Ekonomi Serta Ketahanan Nasional Pada Masa Pandemi Covid-19 (Literature Review Manajemen Poac)'. *Jurnal Ilmu Manajemen Terapan*, 3.3 (2022), 316–328 https://doi.org/10.31933/jimt.v3i3.733

[37] Abdul Kadir Jaelani, and Muhammad Jihadul Hayat, 'The Proliferation of Regional Regulation Cancellation in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 121-138 https://doi.org/10.53955/jhcls.v2i2.38

[38] Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *Journal Of Indonesian Legal Studies,* 8.1 (2023), 243-88 https://doi.org/10.15294/jils.v8i1.67632

[39] Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies : Evidence from China', *Legality : Jurnal Ilmiah Hukum,* 31.2 (2023), 202-223 https://doi.org/https://doi.org/10.22219/ljih.v31i2.25874

[40] Abdul Kadir Jaelani, Muhammad Jihadul Hayat, and others, 'Green Tourism Regulation on Sustainable Development : Droning from Indonesia And', *Journal of Indonesian Legal Studies,* 8.2 (2023), 663-706 https://doi.org/https://doi.org/10.15294/jils.v8i2.72210

[41] Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) 31-42 https://doi.org/10.53955/jhcls.v1i1.5

Primary legal materials at a theoretical level and how they are applied relevantly are also take into account.[42]

The legal resources utilized in this study include secondary data[43], categorized into various types and sources. The primary legal materials comprise the 1945 Constitution and Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 regarding General Provisions and Tax Procedures (UU KUP). Secondary legal materials are materials that elucidate primary legal materials, including books, articles, theses, scientific works, and relevant documents sourced from the internet. These include Law Number 14 of 2002 concerning the Tax Court and Law Number 7 of 2021 concerning the Harmonization of Tax Regulations. Tertiary legal materials provide guidance and explanations for both primary and secondary legal materials and consist of legal dictionaries, reference texts for resolving tax objections and appeals, as well as resources from the Indonesian Dictionary, English Dictionary, Legal Dictionary, and various online sources. This research employs a comparative approach by conducting a comparative study of tax dispute resolution in Indonesia[44], the United States, Australia, and Russia.

Tax law can be categorized into two main types: formal tax law and material tax law. Formal tax law encompasses provisions that support the implementation of material tax law, which are essential for the application or completion of substantive legal provisions. Following the 1983 tax reform, the provisions of formal tax law in Indonesia were established in Law Number 6 of 1983, subsequently amended by Law Number 9 of 1994, Law Number 16 of 2000, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. Additionally, Law Number 17 of 1997, which pertains to the Tax Dispute Resolution Agency, and Law Number 19 of 1997, later amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter, are also included in this framework.

## 3. Results and Discussion

### 3.1. Comparison of tax dispute resolution in Indonesia with Australia, the United States and Russia.

#### *The Position of the Tax Court in Indonesia*

The position of the Tax Court in Indonesia involves two primary institutions: the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance oversees organizational, administrative, and financial matters, as stipulated in Law No. 14 of 2002 concerning the Tax Court. As research indicates,[47] the Ministry of Finance is tasked with carrying out executive functions; however, when it participates in supervising and developing the Tax Court, it inadvertently assumes the role of a judicial institution. This overlap raises concerns regarding the separation of executive and judicial powers, as these institutions

[42] Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Halal Tourism Sector and Tax Allowance Policy : A Case Study Observed from Normative Problems to Effective Implementation', Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan, 23.2 (2023), 185-210 https://doi.org/10.18326/ijtihad.v23i2.185-210

[43] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024). 299-330 https://doi.org/10.53955/jhcls.v4i2.259

[44] Heru Setiawan, I Gusti Ayu Ketut Rachmi Handayani, M. Guntur Hamzah, and Hilaire Tegnan, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System,* 4.2 (2024), 263-298 https://doi.org/10.53955/jhcls.v4i2.263

[47] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331-335 https://doi.org/10.22225/ah.2.3.2020.331-335

should operate independently, fulfilling their respective functions and exercising checks and balances over one another. This situation brings into question the independence of the Tax Court, as its structure appears to lack genuine autonomy. The dualism of oversight within the Tax Court contradicts Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which asserts that the power to administer justice is vested in an independent judiciary that upholds law and justice. Moreover, it contravenes Article 21 of Law No. 48 of 2009, which states that the Supreme Court is the highest authority in the judicial hierarchy of Indonesia.

The Supreme Court supervises and provides guidance to all judicial institutions, addressing both technical-judicial matters as well as organizational, administrative, and financial aspects. As a body categorized as an executor of judicial power, it must satisfy the following requirements: a) the existence of the court body must be regulated by law; b) the court body that is formed must reside within one of the four established judicial environments; c) all judicial bodies in these four judicial spheres ultimately report to the Supreme Court as the highest state court; and d) the organization, administration, and finances of these bodies are under the authority of the Supreme Court. These four elements must be fulfilled by any judicial body, including special courts.[48]

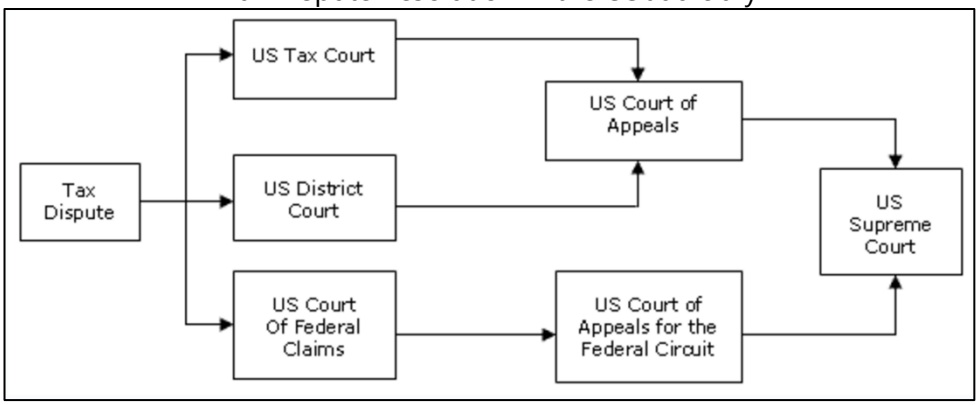
### *The Position of the Tax Court in America*

The entire process of legal action for a tax dispute that cannot be resolved at the executive agency level (administrative remedies) can be submitted to the "Courts of Original Jurisdiction," commonly referred to as "Trial Courts." The Trial Court serves as a first-level judicial institution that adjudicates disputes between taxpayers and the tax authority. The Trial Courts consist of three court types:

a. US Tax Court
b. US District Court
c. US Court of Federal Claims.

Taxpayers may select only one of these three courts to adjudicate disputed tax cases. If either the taxpayer or the tax authority is dissatisfied with the outcome of the court's decision, the dispute can be escalated to the Court of Appeals or the U.S. Court of Appeals for the Federal Circuit. Should the results of this decision remain unsatisfactory, the parties involved may then seek to advance the case to the Supreme Court. The following section provides an overview of the tax dispute resolution system within the U.S. judiciary:

Tax Dispute Resolution in the US Judiciary




[48] Ravi Hafids Maheswara, 'Prinsip-Prinsip Peradilan Pajak DalamPenyelesaian Sengketa Pajak'. *NOTAIRE Journal of Notarial Law*, 3.3 (2020), 441-468 https://doi.org/10.20473/ntr.v3i3.22836

Source: James W. Pratt dan Willian N. Kulsrud, Federal Taxation, Dame Publication, 1998, hal. 2-27.

First Instance Court (Trial Court)

a. US Tax Court

The U.S. Tax Court is a specialized court that exclusively handles tax disputes, staffed by judges with significant expertise in tax law. These judges are appointed directly by the President, with candidates typically being practitioners or IRS officials recognized for their proficiency in the field. The court comprises 19 judges; however, each case submitted is heard by only one judge, who subsequently communicates their views to the chief judge for the final decision. Unlike the U.S. District Court and the U.S. Court of Federal Claims, both of which can also adjudicate tax disputes, the U.S. Tax Court does not require taxpayers to pay the disputed tax shortfall in advance. Furthermore, there is no jury involved in the trial process at the U.S. Tax Court. There is only one U.S. Tax Court in the entire United States; however, to facilitate accessibility for taxpayers, the judges travel to various states to hear cases. Within the U.S. Tax Court, there exists a Small Tax Division that addresses tax disputes involving amounts under USD 10,000. If the disputed amount is below this threshold, taxpayers may elect to submit their case to the Small Tax Division. The advantages of this option include expedited examination of disputes and lower costs, leading to quicker resolutions without excessive formality. However, decisions made by the Small Tax Division are not subject to appeal and cannot be cited as legal precedent in future cases.

b. US District Court

For the purposes of the federal judicial system, the United States is divided into 11 regions known as "circuits." These circuits are further subdivided into "districts." Taxpayers may bring their tax disputes to the U.S. District Courts based on their area of residence. This court is the only one that provides a jury, whose responsibilities are limited to determining the evidence rather than interpreting the law. However, in practice, judges often render decisions without regard for the jury's determinations.

c. US Court of Federal Claims

The U.S. Court of Federal Claims is a court that hears specific cases against the federal government, including restitution cases. The court comprises 16 justices and is distributed across the country, although it typically convenes in Washington, D.C. In tax disputes adjudicated in the U.S. Court of Federal Claims, taxpayers are required to first pay the tax owed before submitting a claim for any amount that should not be owed. There is no jury in this court; decisions can be appealed to the U.S. Court of Appeals for the Federal Circuit.

Court of Appeal

US Courts of Appeals and US Court of Appeal for the Federal Circuit

Decisions issued by U.S. Trial Courts (U.S. Tax Court, U.S. District Court, U.S. Court of Federal Claims) may be appealed to a higher authority, namely the U.S. Court of Appeals and the U.S. Court of Appeals for the Federal Circuit. The U.S. Court of Appeals serves as the appellate court for decisions originating from the U.S. Tax Court and the U.S. District Court. In contrast, the U.S. Court of Appeals for the Federal Circuit functions as the appellate court for decisions arising from the U.S. Court of Federal Claims. Furthermore, appeals against decisions rendered by the U.S. Court of Appeals and the U.S. Court of Appeals for the Federal Claims can be submitted to the U.S. Supreme Court for cassation.

*The Position of the Tax Court in Australia*

Tax disputes in Australia are initially resolved through an objection to the Commissioner (equivalent to the Director General of Taxes in Indonesia). Should the decision be contested, it may then be reviewed at the Administrative Appeals Tribunal. Following this, an appeal can be made to federal courts, progressing through various levels, with the highest authority being the High Court.

Australia does not have a dedicated tax court; however, it has a long history of administrative courts with expertise in tax matters. Despite significant constitutional differences between courts and tribunals, the main practical distinction is that courts are part of the executive and are generally subordinate to the administrator when making decisions. Appeals to court administration can only be pursued for reasons recognized in administrative law, such as decisions made beyond the authority granted or instances where decisions are deemed unreasonable or in violation of natural justice. Australia maintains objective institutions for these matters.

***Position of the tax court in russia***

The Tax Court in Russia has a strategic position in the country's judicial system and tax administration. The following is the position and role of the Tax Court in Russia:

Hierarchical Structure

1. Supreme Court of Russia (supreme)
2. Tax Appeals Tribunal (intermediate)
3. Federal Tax Court (FTS) (first instance)

Position in the Justice System

1. The Tax Court is independent and independent of the Federal Tax Service (FNS).
2. The Tax Court has the authority to handle tax disputes and taxpayer objections.
3. The Tax Court is responsible for interpreting tax laws and related regulations.

Role of the Tax Court

1. Resolving tax disputes between taxpayers and FNS.
2. Interpret tax laws and related regulations.
3. Supervise FNS activities in collecting taxes.
4. Protecting taxpayers' rights.
5. Increasing legal certainty and fairness in the taxation system.

Jurisdiction

1. The Federal Tax Court (FTS) has jurisdiction throughout Russia.
2. The Court of Tax Appeals has jurisdiction over several federal territories.
3. The Supreme Court of Russia has supreme jurisdiction.

***Legal Basis for Objection Fines and Appeal Fines Based on Law***

Tax law can be divided into two, namely: formal tax law and material tax law. Formal tax law contains provisions that support material tax law provisions, which are necessary to implement or complete material legal provisions. After the 1983 tax reform, formal tax law provisions in Indonesia were regulated in Law Number 6 of 1983 which was amended by Law Number 9 of 1994, Law Number 16 of 2000, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures; Law Number 17 of 1997 concerning Tax Dispute

Resolution Agency; as well as Law Number 19 of 1997 which has been amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter.[49]

These three laws apply to all types of taxes, such as income tax, value added tax, and luxury goods sales tax. In addition, criminal law has a relationship with tax law. Criminal law, as regulated in the Criminal Code (KUHP), is a broad legal system that also applies to criminal incidents described outside the Criminal Code. Indonesian legislators have obtained the right to deviate from the regulations contained in the Criminal Code starting 16 May 1927. This opportunity is widely used because even administrative regulations really require sanctions that guarantee they will be questioned by the general public. If these provisions deviate from the general provisions of formal tax law that have been regulated, the relevant tax law may also contain formal provisions.

According to the *adage fiat justicia et pereat mundus* (even though the law must be enforced if the world collapses), or *lex dura sedtamen scripta* (the law is harsh, that is how it sounds or is, for the safety of its enforcement). Therefore, there is legal certainty that will create public order. According to Sudikno Mertokusumo, the aim of law is to create legal certainty for the sake of public order. There are those who argue that enforcing the law is the same as enforcing the law for the sake of legal security. This opinion is influenced by the idea that law is a collection of positive rules consisting of a legislative system. This condition is not wrong because Indonesia's positive legal system is influenced or influenced by the Dutch legal system, which is used to a written system, and the legal system built by Indonesia does adhere to a written system.

When judges carry out their judicial function of examining, adjudicating and deciding cases, they are required to follow positive law, so that the function of judges as law enforcers is only limited to carrying out their duties as law enforcers. The view of legal positivism gives rise to legal legism in judges.

In this context, the role of the judge is perceived primarily as a mere mouthpiece for the law (la bouche des lois). Judges function as implementers of statutory provisions, resulting in a situation where law enforcement by judges during the judicial process is not similar to upholding justice. Instead, judges tend to prioritize legal certainty through a formalistic approach to statutory provisions, which can overshadow the broader principles of equity and justice.

In the context of the Taxation Law, the rights guaranteed in Article 28D paragraph (1) of the 1945 Constitution do not constitute a guarantee that taxpayers cannot be subject to administrative sanctions in the form of fines as regulated in the Taxation Law. Article 25 paragraph (9) and Article 27 paragraph (5d) of Law 28/2007 are actually in line with Article 28D paragraph (1) of the 1945 Constitution considering that these provisions apply to all taxpayers who submit objections or appeals. In law enforcement, if judges only pay attention to legal certainty, the element of justice will be neglected. This is because judges simply apply the law in their decisions, and the result is formal truth.

In this case, the judges only need to find and determine the law that applies to specific events that have been proven in the judicial process, regardless of whether the provisions found in the articles of the law being applied fulfill a sense of justice or not, or whether they are beneficial or not for justice seekers. The judges' attitude is not wrong in the context of

[49] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

the legal (judicial) process. Judges cannot be subject to administrative or criminal sanctions if their performance and behavior violate procedural law procedures (for example, behaving unprofessionally) or their behavior when carrying out their judicial duties.

Judiciary in the tax field is founded on the principle of justice. If tax collection that is not in accordance with the Taxation Law is unfair, this can cause disputes between Taxpayers and authorized officials. Taxpayers' rights can be corrected in the Tax Court.

### *Principles of Justice for Objection Fines and Appeal Fines Imposed on Taxpayers*

Indonesia is a rule of law state, characterized by a modern welfare which desires to realize justice for all Indonesians. The current government has many responsibilities to safeguard public interests and sometimes violates rights. taxpayer to collect taxes. However, this can be avoided by complying with applicable tax laws. Tax law allows the government to obtain funds to fulfill state obligations. Taxes and other levies that are coercive for state needs are regulated by law as a rule of law characterized by a modern welfare state.[50]

The principle of legality is providing legal protection for taxpayers when the country requires taxes.[51] Currently, most tax collection systems use a self-assessment system, where the focus of tax activities is on the taxpayer. This system allows taxpayers to calculate the amount of tax owed and make payments by themselves.[52] In practice, differences in calculations between taxpayers and tax collectors regarding the amount of tax that must be paid often emerge. The relationship between taxpayers and tax collectors in their actions can cause disagreements that can lead to disputes.

In the case of filing an objection, taxpayers face problems because the Directorate General of Taxes takes a long time to make a decision regarding the objection. One of the problems with the objection resolution process is that many taxpayers believe that previously used objection resolution methods do not prioritize their right to a fair process. The process of resolving tax disputes should be fast, transparent, cheap and simple and provide legal certainty and a sense of justice for the disputing parties during the procedure. In fact, the tax dispute resolution process generally takes up to 36 months.[53] The length of the tax dispute resolution process means taxpayers and DJP cannot immediately receive legal certainty, which will make things difficult for the parties involved in the implementation of tax obligations for subsequent years.[54]

The objection letter must be clear to describe the actual situation. This situation shows the amount of non-tax state revenue owed, either through calculations of mandatory payments or through assessment letters or invoices from government agencies. Therefore, a decree or invoice must be attached to the objection letter so that the party investigating the objection can understand the legal situation behind the objection.

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[50] Ahmad Zaini, 'Negara Hukum, Demokrasi, Dan Ham', *Al Qisthas: Jurnal Hukum Dan Politik Ketatanegaraan*, 11.1 (2020), 13-48 https://doi.org/10.37035/alqisthas.v11i1.3312

[51] Danel Aditia Situngkir, 'Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional', *Jurnal Soumatera Law Review*, 1.1 (2018), 22-42 https://doi.org10.22216/soumlaw.v1i1.3398

[52] Hwei Ming Wong, 'Implementing self-assessment in Singapore primary schools:effects on students'perceptions of self assessment', *Pedagogies: An International Journal,. Pedagogies: An International Journal*, 12.4 (2017). 391-409 https://doi.org/10.1080/1554480X.2017.1362348

[53] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[54] Ajeng Loshita Sari, and Siti Nuryanah, 'Analisis Sengketa Pajak Atas Pembatasan Perbandingan Utang Dan Modal Perusahaan', *Journal Media Riset Akuntansi, Auditing & Informasi*, 23.2 (2023), 203-224 http://dx.doi.org/10.25105/mraai.v23i2.16956

Additionally, the three-month period provides taxpayers with an excessively lengthy opportunity to file objections. The time frame for filing objections should be modified to one month from the date the taxpayer receives their determination. In cases of force majeure, this one-month period may be subject to extension. A Tax Assessment Letter (SKP) is a formal document that includes various types of assessments, such as those for underpayment of tax, additional payment assessments, nil tax assessment letters, or overpayment tax assessment letters. The taxpayer is obligated to pay the tax owed as stipulated in the SKP, without any benefit derived from its existence.

A tax underpayment assessment letter is issued by the Director General of Taxes within a period of 5 years after the tax is due or at the end of the tax period, part of the tax year, or tax year, if the following things occur: 1) If based on the results of an audit or other information, the tax owed is not paid or underpaid. 2) If the notification letter is not submitted within the specified time period and after being warned in writing it is not submitted on time as specified in the warning letter.

At some point, taxpayers have rights that they can exercise or take advantage of. If the tax administration violates their rights, the taxpayer can submit this matter to the superior officer of the officer who violated them or to the tax court if necessary. Taxpayers are classified as central and regional taxpayers. This distribution is based on the fact that central taxpayers and regional taxpayers have different rights. This difference is caused by the provisions regarding the fulfillment of rights between the two.

The KUP regulates the fulfillment of the rights of central taxpayers, which is different from the fulfillment of the rights of regional taxpayers as regulated in the Law. Before submitting objection, taxpayers have the right to request written information regarding matters that form the basis for tax imposition, calculation of losses, or deductions by third parties from the Director General of Taxes through the KPP in their area. Upon request for this information, the Director General of Taxes is obliged to provide information.

The requirements for submitting an objection are as follows: 1) The objection must be made in writing in Indonesian Language, addressed to the Director General of Taxes (for Central Tax) via the local KPP or the Governor (for Provincial Tax), Regent/Mayor (for Regency Tax/City Tax ); 2) the objection must state the amount of tax owed or the amount of tax withheld or collected or the amount of loss according to the Taxpayer's calculations and accompanied by clear reasons; 3) One objection must be submitted for one type and one year/tax period.

The Minister of Finance Regulation also stipulates the procedures for submitting and resolving objections, including the taxpayer's right to be present in order to provide information or gain clarification regarding their objection. The legal consequences of the Director General of Taxes' decision concerning the taxpayer's objection may include: a) granting the objection in its entirety; b) granting it in part; c) rejecting the objection; or d) increasing the amount of tax that must be paid.

Requests to submit objections must be made in writing to the tax official responsible for the type of tax in dispute. The written request should include the reasons on which the calculation is based. To enhance the credibility of the objection, relevant forms of legal documentation from tax officials, as well as evidence of tax withholding or collection, should be attached to the written request. For instance, a tax underpayment assessment letter containing the disputed material or proof of withholding or collection of tax with

contested content should be included. This procedure aims to facilitate a prompt examination of the application by tax officials.

***Objections or Appeals Regarding Fines Imposed on Taxpayers in the United States, Australia, and Russia.***

*The United States of America*

The regulations governing the Tax Court in the United States are outlined in the Tax Court Rules, which comprise the Rules of Practice and Procedure, as well as the regulations pertaining to objections and appeals. Various countries acknowledge and protect taxpayers' rights through formal recognition in laws, other legislative instruments, and administrative documents. International organizations have contributed to the development of taxpayer rights. England, New Zealand, and Australia were among the first countries to adopt a "Taxpayer Charter" as a means to assist taxpayers and inform them of their rights.[55]

The United States published a publication explaining the rights of taxpayers in Publication 1, entitled "The Taxpayer Bills of Rights" in 2014. This publication is to inform taxpayers' rights in the process of tax audit objections and appeals, tax collection and refunds. These taxpayer rights include: 1) the right to be informed, 2) the right to quality service, 3) the right to pay no more than the correct amount of tax, 4)the right to challenge the irs's position and be heard, 5) the right to appeal an irs decision in an independent forum, 6) the right to finality, 7)the right to privacy, 8) the right to confidentiality, 9) the right to retain representation, and 10) the right to a fair and just tax system.

The entire process of legal action for a tax dispute that cannot be resolved by the executive agency (administrative remedies) may be submitted to the "Trial Courts." The Trial Courts consist of three courts: 1) U.S. Tax Court; 2) U.S. District Court; and 3) U.S. Court of Federal Claims. Taxpayers may choose one of these three courts to adjudicate disputed tax cases. If either the taxpayer or the tax authority is dissatisfied with the outcome, the dispute may be escalated to the Court of Appeals or the U.S. Court of Appeals for the Federal Circuit. Should the decision from the Court of Appeals be deemed unsatisfactory, the parties involved may subsequently appeal to the Supreme Court.

*Australia*

Tax Court regulations in Australia are governed by the Income Tax Assessment (1997 Act) Regulations 2021. Australia also recognizes taxpayer rights in the Taxpayers' Charter document. Other countries, such as Canada, England, and the Netherlands, have similarly acknowledged taxpayer rights in various documents, including taxpayer rights charters or the Taxpayers' Charter. However, the formal recognition of taxpayer rights in specific documents is not uniformly implemented across all countries. In Indonesia, for instance, the tax law system does not include separate documents specifically recognizing taxpayer rights. The establishment of a distinct document, such as a taxpayer's charter or a similar framework for recognizing taxpayer rights, would facilitate taxpayers' understanding of and access to their rights, including the procedures for legal recourse in cases where those rights are violated.

[55] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

If taxpayers perceive that they have been treated fairly and that their rights have been upheld, it is anticipated that this will enhance taxpayer compliance with their tax obligations. Australia recognizes the rights of its taxpayers through the acknowledgment of mutual rights and obligations between tax authorities and taxpayers. This recognition is encapsulated in the "Australian Taxpayers' Charter of Rights." Fulfilling the rights of taxpayers is a responsibility of the tax authorities, and conversely, taxpayers also have associated obligations. These rights and obligations are articulated as follows: What you (taxpayers) can expect from us (the tax authority): 1) your rights and obligations; 2) what you can do if you are not satisfied.

Your rights, you can expect us to: 1) Treat you fairly and reasonably. 2) Treating you as being honest unless you act otherwise. 3) Offering you professional service and assistance. 4)Accepting you can be represented by a person of your choice and get advice. 5) Respect your privacy.

*Russia*

There are 3 types of fines in Russia, namely:

1. Administrative fine: 10-50% of the unpaid tax amount.
2. Penalty for late payment: 1/300 of the unpaid tax amount per day.
3. Fines for violation of tax regulations: 10-100% of the amount of unpaid tax.

The amount of fines for late tax payment is set at 1/300 of the tax amount per day; for failure to report tax, the fines range from 5% to 10% of the tax amount; and for errors in tax reporting, the fines range from 1% to 5% of the tax amount. The first step in the fine payment procedure involves taxpayers receiving a fine decision letter from the Federal Tax Service Office (FNS). Taxpayers are required to pay the fine within 30 days, with payment options available either through a bank or online. To submit an objection, the taxpayer must first lodge an objection with the FNS within 10 days. The FNS will then consider the objection and issue a decision. If the objection is rejected, the taxpayer may subsequently appeal to the Federal Tax Court.

*Outline Comparison of Objections and Appeals*

In the USA, the material that can be objected to is the statutory notice of deficiency. If the taxpayer does not agree with the auditor's correction at the closing conference, the taxpayer has 30 days to consider it. If within 30 days the taxpayer does not respond, the United States tax authority (IRS) issues a statutory notice of deficiency. Upon statutory notice of deficiency, taxpayers are given 90 days to submit an objection (petition) to the Tax Court using a special form. However, in some instances a taxpayer may choose not to respond to the 30-day letter. In this case they will receive a 90-day letter whereby they may instead choose to enter the disputes process at the stage where they file a petition in the US Tax Court.[56]

Objections are processed by the U.S. Tax Court. The Tax Claim Court and District Court will not consider a taxpayer's objection request if it is submitted late, if the taxpayer has not paid the amount of tax owed as specified in the SKP, or if the request for an administrative refund has been rejected by the IRS. Objections do not affect the collection period

[56] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86* https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

(Collection Statute Expiration Date/CSED), unless there is a delay (suspension) or an extension of the time period in certain cases. The settlement period must not exceed the CSED. A decision on an objection may either reduce or increase the tax owed.

For each payment of excess tax payments to taxpayers, the United States tax authority (the Internal Revenue Services) will make the payment accompanied by an interest reward. The amount of interest compensation is set at the Federal Short-term rate plus 0.5% for certain corporations, plus 2% for corporations and plus 3% for taxpayers other than corporations. In Australia, taxpayers can choose to report notification letters on paper or electronically. In the event that a taxpayer asks for help from a tax agent to prepare their notification letter, they are required to use electronic reporting.

The Australian Tax Office (ATO) will notify taxpayers of the installment rate, allowing them to be aware of the amount they are required to pay. The deadline for annual tax return reporting for individuals is four months after the end of the tax year, whereas for companies, it is seven months. This deadline may be extended if the report is submitted through a tax agent. The ATO also provides taxpayers with the opportunity to correct their notification letters through a self-amendment procedure. Self-amendments can be made by taxpayers via telephone to the ATO. Regarding objections, all decisions made by the commissioner may be submitted as part of the objection materials.

Taxpayers may submit objections to the assessment within a period of 60 days, within four years from the original assessment (two years for certain taxpayers), and for private rulings, within 60 days, within four years from the deadline for submitting the SPT (two years for certain taxpayers). Objections should be submitted to the Commissioner. During the objection process, the tax debt must still be paid, even if the taxpayer disagrees with the assessed amount. However, the Commissioner typically agrees to postpone payments by 50% if there is a genuine dispute.

The Commissioner completed the objection process within 56 days (8 weeks). If the ATO does not make a decision within 60 days after submitting an objection, the taxpayer can write a notification to the ATO to obtain a decision. If the ATO does not make a decision within 60 days after this notification, the WP's objection is considered not granted, which means allowing the WP to obtain an external review from the court or tribunal. If the ATO requests additional information, this 60 day period begins when the taxpayer provides the requested information.

The ATO provides a standard form for submitting objections. If taxpayers disagree with the objection decision, they may submit an appeal to the Administrative Appeals Tribunal (AAT) or to the Federal Court. In Russia, the procedure for filing an objection requires the taxpayer to submit their objection to the Federal Tax Service (FNS) within 10 working days after receiving the tax decision letter. The taxpayer must complete the objection form and attach supporting documents (such as the tax decision, proof of payment, etc.), then submit the objection either in writing or electronically. To submit an appeal, the taxpayer must file an appeal with the Federal Tax Court (FTS) within 10 working days after receiving the FNS decision. The taxpayer should fill out the appeal form and attach supporting documents (including the FNS decision, proof of payment, etc.), submitting the appeal in writing or electronically. The required initial documents include the objection or appeal form, the tax decision from the FNS, proof of payment, identity documents (such as a passport or NPWP), and any additional supporting documents. The filing addresses are as follows:

Federal Tax Service (FNS) at [local FNS office address] and the Federal Tax Court (FTS) at [local FTS court address]. The administrative fee for filing is between 300 and 500 rubles, while the appeal fee ranges from 1,000 to 2,000 rubles. The completion time for an objection is 30 working days, and for an appeal, it is 60 working days.

In Indonesia, the process for filing objections and appeals differs significantly from that in other jurisdictions. Under the current tax law, several legal remedies are available to taxpayers or tax bearers who feel disadvantaged by the fiscus, including objections, appeals, lawsuits, and judicial reviews. This contrasts with other judicial institutions, where the available legal remedies encompass lawsuits, appeals, cassation, and judicial review. Legal action for objections is a legal mechanism that is resolved within the government framework. In contrast, appeals and lawsuits are legal remedies for which the resolution (examination and decision) occurs at the Tax Court. The current institution responsible for tax justice is the Tax Court, which was established under Law Number 14 of 2002 concerning the Tax Court.[57]

The absolute jurisdiction of the Tax Court is to examine and adjudicate tax disputes in the form of tax appeals and lawsuits. This raises concerns regarding the independence of the objection institution, as tax disputes occur between taxpayers and the government (Directorate General of Taxes), yet the entity responsible for examining and resolving these disputes is also the Directorate General of Taxes. This situation creates a potential conflict of interest, given that the objection institution currently operates under the Directorate General of Taxes.

There are issues of fairness in litigation at tax objection institutions. This is evident in the provisions of the KUP Law, which impose a penalty of 50% of the tax owed if the taxpayer's objection is either rejected or only partially granted. Such sanctions can instill a sense of "fear" among taxpayers regarding the filing of objections, as the associated risks—particularly the threat of substantial fines—are considerable.

In summary, there are significant differences in the institutions adjudicating taxpayer disputes in the United States, Australia, and Russia compared to Indonesia. In the former countries, there are efforts to mediate tax disputes through independent external institutions that operate at a lower cost, with decisions rendered promptly, and these institutions exist outside the executive branch, functioning as judicial entities.

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## 3.2. Efforts that need to be made in order to increase fiscal justice in Indonesia based on the results of a comparative study of 4 countries (Indonesia, Australia, the USA, and Russia) for realizing justice for taxpayers and the Indonesian people from a human rights perspective.

The formulation of taxpayers' rights identifies several key entitlements that must be afforded ideal treatment, including: 1) the right to be informed, assisted, and heard; 2) the right of appeal; 3) the right to pay no more than the correct amount of tax; 4) the right to certainty; 5) the right to privacy; and 6) the right to confidentiality and secrecy.[58]

[57] Budi Ispriyarso, 'Upaya Hukum Dalam Sengketa Pajak', *Jurnal Hukum Administrasi dan Pemerintahan*, 1.1 (2018), 9-14 https://doi.org/10.14710/alj.v1i1.9-14

[58] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

The formulation of taxpayer rights encompasses the substance of tax law, which includes tax laws and regulations; the structure of tax law, comprised of the institutions or agencies that administer it; and the tax law culture, which can serve as a mechanism to promote justice for the government, taxpayers, and society. The rights to receive information, assistance, and have complaints heard are integral to ensuring that taxpayers can fulfill their tax obligations accurately. Taxpayers also have the right to receive correct information regarding their rights in relation to the tax obligations they must fulfill. They are entitled to know what is required of them to comply with statutory provisions. The right to receive assistance specifically refers to guidance and support that enable taxpayers to meet their tax obligations properly and accurately. This right necessitates two-way communication between taxpayers and the tax administration.

Communication may originate from the tax administration when there are important information and provisions that taxpayers need to understand. Such communication can take the form of mass information dissemination through media, distribution of flyers, or conducting informational counseling sessions. Conversely, taxpayers may initiate communication when they require information and knowledge from the tax administration.

Taxpayers can request special consultation regarding the tax problems they face. The right to have their complaints heard concerns statements of disagreement with tax administration actions and dissatisfaction with the services provided to taxpayers. In fulfilling taxpayers' rights, tax administration is obliged to provide administrative services to taxpayers. Tax administration is open to complaints, criticism and input from taxpayers so that the services provided to taxpayers can meet taxpayers' expectations. General Provisions and Tax Procedures regulate tax administration procedures.

### *Principles of Justice for the Government, Taxpayers and Indonesian Society regarding Objection Fines and Appeal Fines Human Rights Perspective*

Due to incompetence in law enforcement and errors in the formulation of legal remedies, the judiciary in the field of taxation in Indonesia has been unable to fulfill a sense of justice and equality of legal standing for the government, taxpayers, and society. Filing legal action may subject taxpayers seeking justice to administrative or judicial fines. Furthermore, friction between taxpayers may arise due to the government's inadequacies in implementing the self-assessment system and the deficiencies of the tax judiciary in producing quality outcomes.

The philosophy of legal action serves as a means for all individuals seeking justice to advocate for their rights equally before the law. Taxpayers, who possess both obligations and rights as regulated by law, are no exception. In the domain of taxation, institutionalized legal mechanisms include objections and appeals. An objection is a recourse that can be submitted by a taxpayer regarding a tax dispute pertaining to the amount of tax owed to the Director General of Taxes. If the taxpayer is dissatisfied with the Objection Decision, they may subsequently submit an Appeal to the Tax Court as the next legal remedy.

During the reform period, society demanded transparency, freedom, democratization, and equality before the law, which significantly impacted the administration of justice. The principle of equality of legal status asserts that no citizen should enjoy privileges, including in the domain of tax justice, whether as an individual or as a state official. The concept of a

legal state comprises the requirement that state power or sovereignty must be exercised in accordance with the law, and vice versa. In the framework of social justice, there is no distinction between civil and political rights and social, economic, and cultural rights. These two fundamental categories of human rights should exist in harmony; neither should take precedence over the other in their implementation.

In principle, the state is entitled to demand and accept the obligations of citizens for the welfare of the state. However, this must be grounded in the respect and recognition of human rights principles enshrined in various articles of the 1945 Constitution of the Republic of Indonesia. Moreover, several provisions within Law Number 14 of 2002 concerning the Tax Court must reflect the recognition and respect for every citizen while simultaneously ensuring a sense of justice.

Law Number 14 of 2002 concerning the Tax Court contains provisions that legitimize government power and state authority over citizens. Therefore, the separation of powers among the executive, legislative, and judiciary branches must be upheld to ensure a balance of power that provides mutual oversight. Through Law Number 14 of 2002, state and government administrators may act in accordance with interests that can conflict with a sense of justice and legal certainty.

The relationship between taxpayers and the fiscus often reflects a de facto inequality, despite the fact that this balance has been addressed de jure in Article 36A of Law Number 28 of 2007 concerning General Provisions for Tax Procedures. As a result of taxpayers' limited understanding of the law and the fiscus' misguided perspective, there frequently exists a relationship dynamic that positions taxpayers merely as subjects of burden within the taxation process.

The choice of language and non-strategic explanations may indicate that the paradigm used in designing regulations tends to prioritize negative perceptions towards one of the parties involved in the process. The consequences of ambiguous clauses in the law can also affect the implementation phase. For instance, the concept of good faith must be articulated in a manner that is practically acceptable to both the fiscus and taxpayers through established technical mechanisms. The strategy of integrating normative clauses into common practice is essential for facilitating effective communication between the two parties. This obligation should be supported by appropriate incentives and disincentives. Although this may not be an easy task, it is believed that the quality of communication will improve if the communication tools are robust. This improvement results in clarity and a shared understanding with a common language regarding the definition of good faith.

Conversely, to ensure equitable treatment and foster a healthy relationship, the fiscus must also demonstrate corresponding good faith. For example, the law should mandate regular peer reviews by parties deemed capable of assessing the quality of the fiscus's work in audits. These practices should be clearly defined and understood by professionals in the relevant fields.

From the analysis, it can be concluded that to achieve justice and fair legal certainty for all parties involved, the position of the fiscus as the "state" holds absolute power in calculating and determining the amount of tax that taxpayers must pay, as well as in making decisions regarding the objection requests submitted by taxpayers. This

concentration of power in the hands of the fiscus has the potential for misuse, as it may lead to the pursuit of unilateral gains, given that the individual examining the taxpayer's objection is the direct superior of the fiscus responsible for conducting the audit and determining the tax amount.

Furthermore, if a taxpayer files an objection and/or appeal, they are at risk of incurring a fine if they are unsuccessful. As outlined in Article 25, paragraph (9) and Article 27, paragraph (5d) of Law Number 28 of 2007 concerning General Provisions for Tax Procedures, these provisions do not reflect the principle of equality of legal status (where taxpayers/citizens stand equal to the fiscus in the pursuit of justice). Such stipulations contravene Article 27, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which presents an obstacle for citizens seeking justice.

The provisions in Article 25, paragraph (9), and Article 27, paragraph (5d) of the KUP Law pose a threat to taxpayers seeking justice, thereby violating constitutional rights as stipulated in Article 28D, paragraph (1), and Article 28G, paragraph (1) of the 1945 Constitution. These articles hinder taxpayers from pursuing justice, further contravening constitutional rights as outlined in Article 28H, paragraph (2).

Moreover, the content of Article 25, paragraph (9), and Article 27, paragraph (5d) of the KUP Law is inconsistent with the principles of tax collection, specifically the principles of equal treatment, equality, and justice (equity). Ideally, the legal relationship between taxpayers and the fiscus should be regulated uniformly regarding penalties and payments. Errors in calculating the tax obligations of taxpayers are not solely attributable to the taxpayers themselves; the fiscus may also make mistakes, whether intentionally or unintentionally, in determining the correct tax amount. Therefore, it is unreasonable for taxpayers to bear the consequences of such errors. The imposition of sanctions against taxpayers seeking justice should be eliminated, as it contradicts the principles of the rule of law.

## 4. Conclusion

This study has shown that Law Number 28 of 2007 concerning General Provisions on Tax Procedures in Indonesia does not provide fair legal certainty because of the Fiscus' absolute power in determining the amount of tax and objection decision, which is contrary to the principle of equality of legal standing in Article 27 paragraph (1) of the 1945 Constitution. In Indonesia, taxpayers face the risk of fines of 30% to 60% for losing objections and appeals, in contrast to the United States which has three tax judiciary institutions with the principle of information disclosure, Australia which provides neutral mediation through the ATO as well as an appeals process that includes internal and external channels, and Russia which has 4 levels of tax justice institutions with the principle of independence.

To improve fiscal justice in Indonesia, it is necessary to fulfill taxpayers' rights such as the right to obtain information, guidance, be heard, the right to appeal, the right to pay taxes according to the correct amount, the right to certainty, privacy and confidentiality, as well as the application of the principle of openness in the Tax Court to ensure transparency, enable public oversight, and improve court performance.

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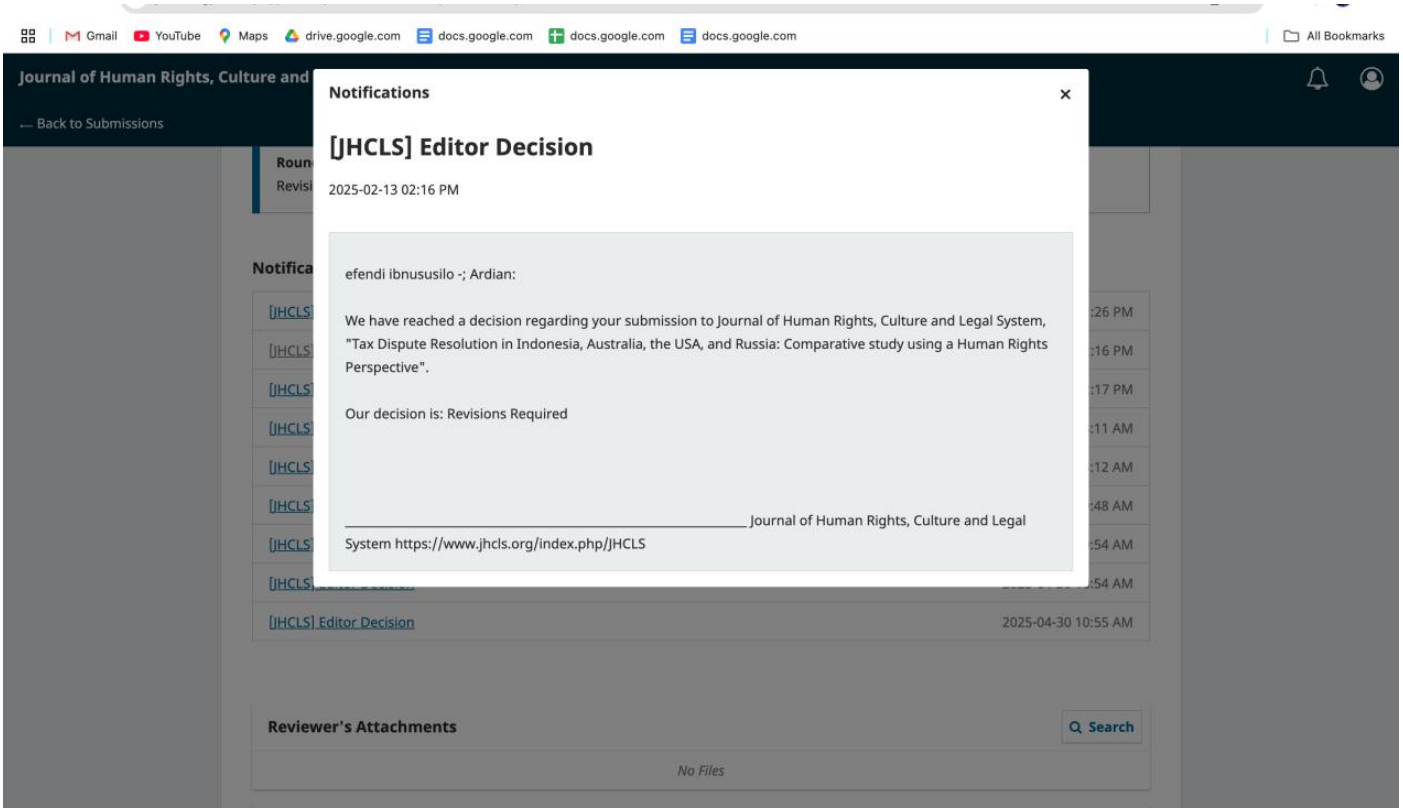

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# Tax Dispute Resolution in Indonesia, Australia, the USA, and Russia: Comparative study using a Human Rights Perspective

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ABSTRACT

The position of the Fiscus in Indonesia, which holds absolute power in determining the amount of tax and issuing decisions on taxpayer objections according to Law Number 28 of 2007, does not provide fair legal certainty and does not reflect the principle of equality before the law as regulated in Article 27, Paragraph (1) of the 1945 Constitution. This is due to the inherent risk of tax penalties ranging from 30% to 100% resulting from unsuccessful objections and appeals. This study aims to compare tax dispute resolution in Indonesia with that of Australia, USA, and Russia from a human rights perspective. It employed the normative legal research method with literature studies using legislation and conceptual approaches. The findings indicated that the United States of America has three tax justice agencies with the principle of information openness, Australia provides neutral mediation through the ATO and internal and external settlement channels, and Russia has 4 levels of tax justice institutions with the principle of independence. Meanwhile, Indonesia needs to improve fiscal justice by fulfilling taxpayers' rights such as the rights to information, direction, hearing, appeal, certainty, privacy, and confidentiality. Principles of fairness, effectiveness, and ease of administration are important to increase tax capacity and ensure that taxpayers can carry out their obligations well.

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## 1. Introduction

Taxes are a public contribution to the state based on state regulations which are used for financing state activities.[1] Taxes are important instruments in a country's financial system. Apart from being the main source of revenue for the government, they also have a strategic role in encouraging economic development and social welfare.[2]

Considered as a critical sector for the continuity of development,[3] the construction of public facilities such as roads, bridges, schools, police stations, hospitals, and health centers is financed through tax revenue.[4]

The tax sector has a significant role in reducing both the volume and ratio of the budget deficit.[5] Taxation is an obligation that must be obeyed and is subject to binding regulations.[6] It is imposed without the expectation of direct rewards and is utilized to meet the state's essential needs for the welfare of the people.[7] Taxes have a coercive nature, as established by law,[8] which includes legal sanctions in the form of administrative and criminal sanctions.[9] Despite the coercive nature of taxation, tax authorities should not abuse the taxes paid by taxpayers.[10]

Taxes play a substantial and decisive role in the future, particularly regarding the planning and allocation of financial resources for national development. Therefore, it is imperative for the government to give serious attention to the taxation sector.[11]

Tax imposition plays a critical role in regulating a country's finances, including those of Indonesia. In fact, taxes are the primary source of income for the nation. For instance, in 2022,

[1] Ramadhania Deninta Sismi, and Dwi Martani, 'Analysis of thin capitalization on listed companies in Indonesia and Australia', *E-book Urbanizing the Regional Sector to Strengthen Economy and Business toRecover from Recession*, ISBN: 978-1-032-30070-2 (2023), 232-246 https://doi.org/10.1201/9781003303336-27

[2] Daryanti, Asriana, and Astuty Hasti, 'Etika dan Keadilan Pajak dalam Perspektif Islam', *Jurnal Akmen*, 21.1 (2024), 61-70 https://doi.org/10.37476/akmen.v21i1.4611

[3] Resmaya Agnesia Mutiara Sirait, 'Pelaksanaan Kebijakan Penyanderaan Pajak (Gijzeling) Dilihat Dari Perspektif Hak Asasi Manusia', *Journal Sasi*, 26.1 (2020), 9-19 https://doi.org/10.47268/sasi.v26i1.192

[4] Artha Polma Naibaho, Nyoman Serikat P , and Budi Ispriyarso, 'Paksa Badan (Gijzeling) Sebagai Instrumen Penagihan Pajak (Kajian Yuridis Dari Perspektif Hukum Pidana)', *Diponegoro Law Journal*, 5.3 (2016), 1-16 https://doi.org/10.14710/dlj.2016.11959

[5] Ismiani Aulia, and Nera Marinda Machdar, 'Upaya Hukum Dalam Penyelesaian Sengketa Pajak Pada Pengadilan Pajak: Suatu Perspektif Keadilan', *Sinomika Journal*, 2.3 (2023), 603-620 https://doi.org/10.54443/sinomika.v2i3.1471

[6] Mirna Palipuri Amir, Jaqueline E. M. Tangaku, and Michael Miran, 'Analisis Tax Planning Pada Pt. Hutama Surya Perdana Di Mamuju', *JAIM: Jurnal Akuntansi Manado*, 2.2 (2021), 240-248 https://doi.org/10.53682/jaim.v2i2.1323

[7] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[8] Syanti Dewi, Widyasari Widyasari, and Nataherwin Nataherwin, 'Pengaruh Insentif Pajak, Tarif Pajak, Sanksi Pajak Dan Pelayanan Pajak Terhadap Kepatuhan Wajib Pajak Selama Masa Pandemi Covid-19', *Jurnal Ekonomika dan Managemen*, 92 (2020), 108-124 https://dx.doi.org/10.36080/jem.v9i2.1248

[9] Orin Ndari Ervana, 'Pengaruh pemeriksaan pajak, keadilan pajak dan tarif pajak terhadap etika penggelapan pajak (Studi kasus pada kantor pelayanan pajak pratama Klaten)', *Jurnal Akuntansi Pajak Dewantara*, 1.1 (2019), 80-92 https://doi.org/10.24964/japd.v1i1.802

[10] Ni Putu Purnama Sari, I Made Sudiartana, and Ni Luh Gde Mahayu Dicriyani, 'Pengaruh Keadilan Pajak, Sistem Perpajakan, Tarif Pajak Dan Sanksi Perpajakan Terhadap Persepsi Wajib Pajak Badan Mengenai Etika Penggelapan Pajak (Tax Evasion)', *Kumpulan Hasil Riset Mahsiswa Akuntansi (KHARISMA)*, 3.1 (2021), 140-149 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1687

[11] Wa Mareza Dwi Nugraheni, Hadi Pramono, Ani Kusbandiyah, and Nur Isna Inayati, 'Pengaruh Perencanaan Pajak, Aset Pajak Tangguhan, Beban Pajak Tangguhan, Free Cash Flow, Profitabilitas dan Kepemilikan Manajerial yang Mempengaruhi Manajemen Laba (Studi Kasus pada Perusahaan Sektor Consumer Non-Cyclicals periode 2019-2021)', *JEMSI (Jurnal Ekonomi, Manajemen, Dan Akuntansi)*, 9.3 (2023), 628-641 https://doi.org/10.35870/jemsi.v9i3.1106

tax revenues contributed IDR 1.5 trillion to a total state revenue of IDR 2.2 trillion.[12] This shows how important tax contributions are in generating income that supports government functions and development programs.[13]

Given the significant and decisive role of the taxation sector in the implementation of national development in the Republic of Indonesia, it is reasonable for the government to pay attention to this sector, including undertaking legislative reforms. This includes regulatory reforms in taxation, specifically regarding General Provisions and Tax Procedures, abbreviated as KUP. These provisions were originally governed by Law Number 6 of 1983 and have been amended several times, first by Law Number 9 of 1994, then by Law Number 16 of 2000, and most recently by Law Number 28 of 2007..[14]

The tax system in Indonesia is based on the self-assessment principle,[15] where the government gives trust and responsibility to taxpayers to calculate, pay, and report their tax obligations independently through Tax Return (SPT) to the Directorate General of Taxes according to the type of tax and the time limit established by applicable laws and regulations.[16] The implementation of self-assessment is a crucial and progressive effort towards efficient tax collection. This system aims to streamline tax administration, ensuring it is organized, controlled, straightforward, and easily comprehensible for members of the tax-paying community.[17] Under the self-assessment system, the authority to determine the amount of tax owed rests entirely with the taxpayer.[18]

Tax disputes are conflicts that arise between individuals or entities[19] obligated to pay taxes and the authorities or tax regulators,[20] resulting from decisions that may be challenged through appeal procedures or legal actions in the Tax Court..[21] An appeal is a legal course of action available to a taxpayer or tax representative against a decision that can be contested

[12] Mardhiyah Alfath Annisaa, and Siti Nuryanah, 'Evaluasi Manajemen Perpajakan Atas Pajak Pertambahan Nilai (Studi Kasus Pada Perusahaan Start-Up X)', *Journal of Economics and Business UBS,* 12.4 (2023), 2532-2549 https://doi.org/10.52644/joeb.v12i4.408

[13] Anindya Nariswari, Sarah Selli Ardelia, Puji Wahono, and Indra Pahala, 'Manajemen Perpajakan: Analisis Perencanaan Pajak Pertambahan Nilai di Indonesia (Kajian Literatur)', *Jurnal Ekonomi dan Manajemen Teknologi (EMT) KITA*, 8.3 (2024), 854-863 https://doi.org/10.35870/emt.v8i3.2607

[14] Rustian Mushawirya, 'The Position Of The Tax Jurisdiction In The System Judicial In Indonesia', *Journal of Administration Law*, 5.1 (2024), 92-105 https://doi.org/10.22437/mendapo.v5i1.31383

[15] Maralus Samosir, and Yusuf Gunawan, 'Analisa Yuridis Sengketa Pajak Pada Pengadilan Tata Usaha Negara Terhadap Surat Ketetapan Pajak Studi Kasus Putusan Pengadilan No 606 K/Tun/2022', *JUSAPAK Jurnal Studi Akuntansi Pajak Keuangan*, 2.1 (2024), 8-22 https://doi.org/10.61696/jusapak.v2i1.218

[16] Ardiansyah, and Wahyudin, 'Politik Hukum Tindak Pidana Perpajakan dalam Perspektif Restorative Justice', *Mimbar Keadilan Journal For Law & Justice,* 16.2 (2023), 221-233 https://doi.org/10.30996/mk.v16i2.7977

[17] Priyambodo Adi, Pajri Arifpadilah, Achmad Iyyan N, Nur Fadhilla Erlis, and Yogi Syahputra Alidrus, 'Penerapan Self-Assestment System Dalam Npwp Sebagai Upaya Progresif Terhadap Eksistensi Pajak Di Indonesia', *Jurnal Indonesia Sosial Teknologi*, 4.7 (2023), 865-874 https://doi.org/10.59141/jist.v4i7.646

[18] Dedi Sugiyanto, 'Analisis Yuridis Pasal 5 Ayat 2 Undang-Undang Republik Indonesia Nomor 14 Tahun 2002 Tentang Pengadilan Pajak Ditinjau Dari Pasal 24 Ayat 1 Dan Ayat 2 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Al-Adl: Jurnal Hukum,* 13. 1 (2021), 116-134 https://doi.org/http://dx.doi.org/10.31602/al-adl.v13i1.4248

[19] Budi Ispriyarso, Athasius P. Bayuseno, and Harlida Abdul Wahab, 'Legal Reformation of Tax Court in Indonesia: Reforming Legal Culture, Institutional and Legislative Aspects', *International Journal of Criminology and Sociology*, 10.1 (2021), 722-728 https://doi.org/10.6000/1929-4409.2021.10.86

[20] Wahyu Kartika Aji, Ristanti Khusnul Khosafiah, Teta Dirgantara Jusikusuma, and Ferry Irawan, 'Penyelesaian Sengketa Pajak Atas Gugatan Dan Sanggahan: Suatu Perspektif Keadilan', *Jurnal Pajak Indonesia (Indonesian Tax Review),* 6.1 (2022), 80-88 https://doi.org/10.31092/jpi.v6i1.1601

[21] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan,* 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

in accordance with applicable tax laws and regulations.[22] This includes legal actions pertaining to enforced tax collection based on the provisions outlined in the Tax Collection Law, as previously discussed by the author.

Based on the latest statistics released by the Tax Court Secretariat on the website www.setpp.kemenkeu.go.id, a total of 12,714 tax signatures were submitted to the Tax Court in 2023. The Appellees/Defendants included the Director General of Taxes, the Director General of Customs and Excise, and the Regional Government, with 10,038, 2,615, and 61 respective defense files. The number of incoming dispute files in 2023 decreased significantly compared to the 14,709 files submitted in 2022.[23] However, this decline in incoming dispute files did not result in a reduction in the production of decisions by judges at the Tax Court. In fact, in 2023, the Tax Court achieved a historic milestone by resolving the most disputes in its history, amounting to 16,278 dispute files. This figure represents an increase over the previous year's resolution of 15,561 dispute files.[24]

In the field of taxation, efforts to resolve tax disputes can be conducted through administrative objections, appeals to the Tax Court, lawsuits to the Tax Court, and judicial review to the Supreme Court.[25] Furthermore, it can be stated that, at the Judicial Review (PK) stage, taxpayers have prevailed in recognizing uniform costs as deductible expenses from gross income.[26]

Not all decisions in tax law are objects of tax disputes, but tax withholding agents, tax bearers, tax collectors, and tax officials are often involved as subjects of these disputes.[27] Tax compliance by taxpayers is the context where disputes most often occur.[28] Tax disputes typically occur because of different interpretations and treatments between commercial accounting and fiscal accounting.[29]

In principle, there are two types of tax disputes that can arise. The first occurs when an individual fails to comply with tax regulations; the second is when someone does something but does not comply with tax regulations. If there is a discrepancy in the implementation of tax collection, the taxpayer has the right to raise objections and appeal against the tax decision imposed by the taxpayer according to tax law.[30]

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[22] Wahyudi, 'Membangun Lembaga Keberatan Pajak Independen Dan Adil', *Journal of Law and Nation (JOLN)*, 1.1 (2022), 48-57 https://joln.org/index.php/joln/article/view/8

[23] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review)*, 8.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[24] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review)*, 8.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[25] Anisya Sukmawati, and Aan Bukhori, 'Pelaksanaan Penyelesaian Sengketa Banding Pajak Pertambahan Nilai Di Pengadilan Pajak (Studi Kasus Pada PT. MPFI)', *VOK@SINDO : Jurnal Ilmu-Ilmu Terapan dan Hasil Karya Nyata*, 9.1 (2021), 12-27 https://doi.org/10.21776/ub.vokasindo.2021.009.1.2

[26] Johannes Aritonang, 'Analisis sengketa pajak atas biaya seragam (studi kasus atas Putusan Peninjauan Kembali Nomor 1710/B/Pk/Pjk/2016)', *Simposium Nasional Keuangan Negara*, 1.1 (2018), 497-518 https://api.semanticscholar.org/CorpusID:188956935

[27] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[28] Sudarsono, Tunggul Anshari Setia Negara, and Imam Koeswahyono, 'Tax dispute settlement mediation arrangements in the future tax court', *International Journal of Research in Business and Social Science*, 11.5 (2022), 503-511 https://doi.org/10.20525/ijrbs.v11i5.1867

[29] Wellia Novita, Rida Rahim, and Fajri Adrianto, 'Sengketa Pajak dalam Perspektif Wajib Pajak (Studi Kasus Restitusi Pajak ADHI-IBG, KSO)', *Owner: Riset & Jurnal Akuntansi*, 6.3 (2022), 2594-2601 https://doi.org/10.33395/owner.v6i3.950

[30] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan*, 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

The tax court is an administrative institution that specializes in the field of taxation. However, there are judicial obstacles in the process of resolving tax disputes, such as limited ordinary legal remedies and extraordinary legal remedies, such as judicial review to the Supreme Court. Cassation is not available. There are lawsuits, appeals, and judicial review to the Supreme Court as legal remedies.[31]

The different interpretations of laws, which can lead to unfair tax collection and conflicts between taxpayers and authorized officials, can result in tax disputes.[32] If the two do not reach the same agreement and understanding, then the problem can be resolved through the Tax Service Office (KPP) to the Tax Court.[33]Ironically, if the objection is rejected or partially accepted, taxpayers as seekers of justice and legal certainty will be subject to fines.

The amount of the fine is set at 30% of the remaining tax debt based on the Objection Decision. When submitting objections and appeals to a court in the United States of America, the taxpayer must choose between a large dispute (above $50,000) and a small dispute (under $50,000). However, tax court judges can also impose fines on taxpayers who sue in court outside the US tax court if the taxpayer does not have a strong legal basis and is just trying to avoid paying taxes with a maximum fine of US $ 10,000. To prevent taxpayers or third parties from filing lawsuits simply to delay or evade tax payments, tax court judges are given the authority to impose sanctions on disorganized taxpayers.

Meanwhile in Australia, the Australian Taxation Office (ATO) is the institution responsible for tax collection. In addition, the ATO also has responsibility for administering the Australian Business Register (ABN), administering the higher education loan program, managing payments, administering the pension system, and acting as the operational manager of the Australian Government Assessment Office. The ATO is under the auspices of the Treasurer of the Commonwealth of Australia.

The tax dispute resolution process in Australia is similar to that in Indonesia. The Australian Tax Office (ATO) offers mechanisms for taxpayers to challenge decisions with which they disagree. However, the ATO employs In-house Facilitation to facilitate mediation for taxpayers operating small businesses. In this facilitation process, taxpayers are mediated by a facilitator from the ATO, who is a professional and independent individual not involved in the prior decision. These facilitators are impartial and neutral.

The tax appeals procedure in Australia consists of a series of steps that taxpayers can undertake to challenge decisions made by the Australian Taxation Office (ATO). If a taxpayer disagrees with the ATO's assessment or decision regarding their tax obligations, they have the right to appeal and request a review of that decision. The appeals process in Australia encompasses both internal and external resolution pathways.

The process of resolving tax disputes in Russia involves several stages and authorized institutions. The initial stage is Filing an Objection (Protest), during which taxpayers submit an objection to the Russian Federal Tax Service (FNS), providing supporting documents. The

[31] Winahyu Erwiningsih, 'Implementasi Penyelesaian Sengketa Pajak Pada Pengadilan Pajak Indonesia', *Justicia Sains: Jurnal Ilmu Hukum,* 6.2 (2022), 248-262 https://doi.org/10.24967/jcs.v6i2.1585

[32] Supriyadi, Beny Setiawan, and Randy Matius Bintang, 'Evaluasi Lembaga Keberatan Dalam Penyelesaian Sengketa Pajak Yang Adil Di Direktorat Jenderal Pajak', *Jurnal Pajak Indonesia (Indonesian Tax Review), 2*.2 (2018), 6-19 https://doi.org/10.31092/jpi.v2i2.640

[33] Rasyidah Che Rosli, Lai Ming Ling, and Roslani Embi, 'Tax malfeasance of high net-worth individuals in Malaysia: tax audited cases', *Journal of Financial Crime*, 25.1 (2018), 155-169 https://doi.org/10.1108/JFC-11-2016-0070

next step is the Consideration of Objections, wherein the FNS reviews the objections and conducts a re-examination. If the objection is upheld, the FNS will issue a new decision. If the objection is rejected, the taxpayer may proceed to Filing an Appeal by appealing to the Federal Tax Court (FTC) of Russia. During the Consideration of the Appeal, the FTC re-examines the case, and if the appeal is accepted, the FTC will issue a new decision. If the appeal is rejected, the taxpayer can pursue a Filing of Cassation by appealing to the Supreme Court of Russia. The authorized institutions involved in the process of resolving tax disputes in Russia include the Federal Tax Service (FNS), responsible for managing and supervising tax matters; the Federal Tax Court (FTC), which handles tax disputes; and the Supreme Court of Russia, which oversees cassation appeals.

Based on the background outlined above, the formulation of this research is as follows: How do the legal systems for resolving tax disputes compare in Australia, the United States, Russia, and Indonesia? Additionally, what efforts need to be made to enhance fiscal justice in Indonesia based on the results of a comparative study of these four countries (Indonesia, Australia, the United States, and Russia) to achieve justice for taxpayers and the Indonesian populace from a human rights perspective?

## 2.Research Method

This research is normative legal research,[34] It employed legal, conceptual, comparative legal, and Systematic Literature Review approaches.[35] Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as published research articles, with a focus on the theory discussed within a certain scope.[36] A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approaches.[37] This research uses a legislative approach by studying statutory regulations related to comparisons pf the resolutions of tax objections and appeals as well as other issues related to this research topic.

This research employed the document study method as the data collection strategy.[38] The data used includes secondary data from literature studies,[39] and primary legal materials, such as laws and legal theories,[40] and secondary legal materials which consist of books, articles, and research findings.[41]

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2.The introduction should be clear and provide the legal issue to be discussed in the manuscript. Before the objective, author should provide an adequate background, and very short literature survey in order to record existing solutions, to show in which is the best of previous researchers, to show what do you hope to achieve (to show the limitation), and to show the scientific merit or novelties of the manuscript. At the end, you should explain the urgency and clearly state aims of your study. At the end, you should explain the urgency and clearly state aims of your study and mention problem of the research in this section.
3.The writer should arrange it in systematic language, exampel (**Definition of tax dispute resolution, Importance of effective tax dispute resolution mechanisms, what the problem of regulation about tax dispute resolution, how many tax dispute resolution in Indonesia, Australia and USA, why you comparative with them, Overview of tax dispute resolution systems in Indonesia, Australia, the USA, and Russia and put the previus research)**

**Commented [ap5]:** This method is written in descriptive and should provide a statement regarding the methodology of the research, include the type of research, research approach, a source of data and analysis method. The author should explain the mechanism to analyze the legal issue.

[34] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum,* 30.1 (2022), 131-46 https://doi.org/10.22219/ljih.v30i1.20764

[35] Jamal Wiwoho, Irwan Trinugroho, Dona Budi Kharisma, and Pujiyono Suwadi, 'Islamic crypto assets and regulatory framework: evidence from Indonesia and global approaches', *International Journal of Law and Management,* 66.2 (2024). 155-171 https://doi.org/10.1108/IJLMA-03-2023-0051

[36] Farhan Saputra, and Habzi Ali, 'Penerapan Manajemen Poac: Pemulihan Ekonomi Serta Ketahanan Nasional Pada Masa Pandemi Covid-19 (Literature Review Manajemen Poac)'. *Jurnal Ilmu Manajemen Terapan*, 3.3 (2022), 316–328 https://doi.org/10.31933/jimt.v3i3.733

[37] Abdul Kadir Jaelani, and Muhammad Jihadul Hayat, 'The Proliferation of Regional Regulation Cancellation in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 121-138 https://doi.org/10.53955/jhcls.v2i2.38

[38] Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *Journal Of Indonesian Legal Studies*, 8.1 (2023), 243-88 https://doi.org/10.15294/jils.v8i1.67632

[39] Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies : Evidence from China', *Legality : Jurnal Ilmiah Hukum,* 31.2 (2023), 202-223 https://doi.org/https://doi.org/10.22219/ljih.v31i2.25874

[40] Abdul Kadir Jaelani, Muhammad Jihadul Hayat, and others, 'Green Tourism Regulation on Sustainable Development : Droning from Indonesia And', *Journal of Indonesian Legal Studies,* 8.2 (2023), 663-706 https://doi.org/https://doi.org/10.15294/jils.v8i2.72210

[41] Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) 31-42 https://doi.org/10.53955/jhcls.v1i1.5

Primary legal materials at a theoretical level and how they are applied relevantly are also take into account.[42]

The legal resources utilized in this study include secondary data[43], categorized into various types and sources. The primary legal materials comprise the 1945 Constitution and Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 regarding General Provisions and Tax Procedures (UU KUP). Secondary legal materials are materials that elucidate primary legal materials, including books, articles, theses, scientific works, and relevant documents sourced from the internet. These include Law Number 14 of 2002 concerning the Tax Court and Law Number 7 of 2021 concerning the Harmonization of Tax Regulations. Tertiary legal materials provide guidance and explanations for both primary and secondary legal materials and consist of legal dictionaries, reference texts for resolving tax objections and appeals, as well as resources from the Indonesian Dictionary, English Dictionary, Legal Dictionary, and various online sources. This research employs a comparative approach by conducting a comparative study of tax dispute resolution in Indonesia[44], the United States, Australia, and Russia.

Tax law can be categorized into two main types: formal tax law and material tax law. Formal tax law encompasses provisions that support the implementation of material tax law, which are essential for the application or completion of substantive legal provisions. Following the 1983 tax reform, the provisions of formal tax law in Indonesia were established in Law Number 6 of 1983, subsequently amended by Law Number 9 of 1994, Law Number 16 of 2000, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. Additionally, Law Number 17 of 1997, which pertains to the Tax Dispute Resolution Agency, and Law Number 19 of 1997, later amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter, are also included in this framework.

## 3.Results and Discussion

### 3.1.Comparison of tax dispute resolution in Indonesia with Australia, the United States and Russia.

#### *The Position of the Tax Court in Indonesia*

The position of the Tax Court in Indonesia involves two primary institutions: the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance oversees organizational, administrative, and financial matters, as stipulated in Law No. 14 of 2002 concerning the Tax Court. As research indicates,[45] the Ministry of Finance is tasked with carrying out executive functions; however, when it participates in supervising and developing the Tax Court, it inadvertently assumes the role of a judicial institution. This overlap raises concerns regarding the separation of executive and judicial powers, as these institutions should operate independently, fulfilling their respective

**Commented [ap6]:** 1.Results should be clear and concise. Discussion should explore the significance of the results of the work, not repeat them. Avoid extensive citations and discussion of published literature.
2.Please focusing to

**Tax Dispute Resolution in Indonesia**
- Legal framework for tax dispute resolution in Indonesia
- Process of resolving tax disputes in Indonesia
- Challenges and shortcomings in the Indonesian tax dispute resolution system

**Tax Dispute Resolution in Australia**
- Tax dispute resolution mechanisms in Australia
- Key features of the Australian tax dispute resolution system
- Comparison of tax dispute resolution practices in Australia with other countries

**Tax Dispute Resolution in the USA**
- Overview of the tax dispute resolution process in the USA
- Role of the Internal Revenue Service (IRS) in resolving tax disputes
- Trends and developments in tax dispute resolution in the USA

**Tax Dispute Resolution in Russia**
- Legal framework for tax dispute resolution in Russia
- Challenges faced by taxpayers in resolving tax disputes in Russia
- Comparison of tax dispute resolution practices in Russia with other countries

[42] Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Halal Tourism Sector and Tax Allowance Policy : A Case Study Observed from Normative Problems to Effective Implementation', Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan, 23.2 (2023), 185-210 https://doi.org/10.18326/ijtihad.v23i2.185-210

[43] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 299-330 https://doi.org/10.53955/jhcls.v4i2.259

[44] Heru Setiawan, I Gusti Ayu Ketut Rachmi Handayani, M. Guntur Hamzah, and Hilaire Tegnan, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263-298 https://doi.org/10.53955/jhcls.v4i2.263

[45] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331-335 https://doi.org/10.22225/ah.2.3.2020.331-335

functions and exercising checks and balances over one another. This situation brings into question the independence of the Tax Court, as its structure appears to lack genuine autonomy. The dualism of oversight within the Tax Court contradicts Article 24, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which asserts that the power to administer justice is vested in an independent judiciary that upholds law and justice. Moreover, it contravenes Article 21 of Law No. 48 of 2009, which states that the Supreme Court is the highest authority in the judicial hierarchy of Indonesia.

The Supreme Court supervises and provides guidance to all judicial institutions, addressing both technical-judicial matters as well as organizational, administrative, and financial aspects. As a body categorized as an executor of judicial power, it must satisfy the following requirements: a) the existence of the court body must be regulated by law; b) the court body that is formed must reside within one of the four established judicial environments; c) all judicial bodies in these four judicial spheres ultimately report to the Supreme Court as the highest state court; and d) the organization, administration, and finances of these bodies are under the authority of the Supreme Court. These four elements must be fulfilled by any judicial body, including special courts.[46]

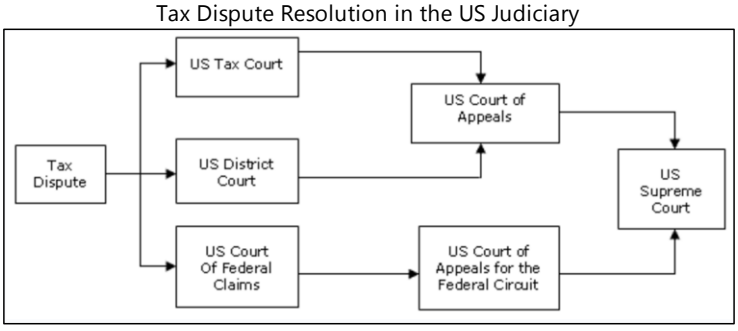
### *The Position of the Tax Court in America*

The entire process of legal action for a tax dispute that cannot be resolved at the executive agency level (administrative remedies) can be submitted to the "Courts of Original Jurisdiction," commonly referred to as "Trial Courts." The Trial Court serves as a first-level judicial institution that adjudicates disputes between taxpayers and the tax authority. The Trial Courts consist of three court types:

a. US Tax Court
b. US District Court
c. US Court of Federal Claims.

Taxpayers may select only one of these three courts to adjudicate disputed tax cases. If either the taxpayer or the tax authority is dissatisfied with the outcome of the court's decision, the dispute can be escalated to the Court of Appeals or the U.S. Court of Appeals for the Federal Circuit. Should the results of this decision remain unsatisfactory, the parties involved may then seek to advance the case to the Supreme Court. The following section provides an overview of the tax dispute resolution system within the U.S. judiciary:

Tax Dispute Resolution in the US Judiciary




[46] Ravi Hafids Maheswara, 'Prinsip-Prinsip Peradilan Pajak DalamPenyelesaian Sengketa Pajak'. *NOTAIRE Journal of Notarial Law*, 3.3 (2020), 441-468 https://doi.org/10.20473/ntr.v3i3.22836

Source: James W. Pratt dan Willian N. Kulsrud, Federal Taxation, Dame Publication, 1998, hal. 2-27.

First Instance Court (Trial Court)

a. US Tax Court

The U.S. Tax Court is a specialized court that exclusively handles tax disputes, staffed by judges with significant expertise in tax law. These judges are appointed directly by the President, with candidates typically being practitioners or IRS officials recognized for their proficiency in the field. The court comprises 19 judges; however, each case submitted is heard by only one judge, who subsequently communicates their views to the chief judge for the final decision. Unlike the U.S. District Court and the U.S. Court of Federal Claims, both of which can also adjudicate tax disputes, the U.S. Tax Court does not require taxpayers to pay the disputed tax shortfall in advance. Furthermore, there is no jury involved in the trial process at the U.S. Tax Court. There is only one U.S. Tax Court in the entire United States; however, to facilitate accessibility for taxpayers, the judges travel to various states to hear cases. Within the U.S. Tax Court, there exists a Small Tax Division that addresses tax disputes involving amounts under USD 10,000. If the disputed amount is below this threshold, taxpayers may elect to submit their case to the Small Tax Division. The advantages of this option include expedited examination of disputes and lower costs, leading to quicker resolutions without excessive formality. However, decisions made by the Small Tax Division are not subject to appeal and cannot be cited as legal precedent in future cases.

b. US District Court

For the purposes of the federal judicial system, the United States is divided into 11 regions known as "circuits." These circuits are further subdivided into "districts." Taxpayers may bring their tax disputes to the U.S. District Courts based on their area of residence. This court is the only one that provides a jury, whose responsibilities are limited to determining the evidence rather than interpreting the law. However, in practice, judges often render decisions without regard for the jury's determinations.

c. US Court of Federal Claims

The U.S. Court of Federal Claims is a court that hears specific cases against the federal government, including restitution cases. The court comprises 16 justices and is distributed across the country, although it typically convenes in Washington, D.C. In tax disputes adjudicated in the U.S. Court of Federal Claims, taxpayers are required to first pay the tax owed before submitting a claim for any amount that should not be owed. There is no jury in this court; decisions can be appealed to the U.S. Court of Appeals for the Federal Circuit.

Court of Appeal

US Courts of Appeals and US Court of Appeal for the Federal Circuit

Decisions issued by U.S. Trial Courts (U.S. Tax Court, U.S. District Court, U.S. Court of Federal Claims) may be appealed to a higher authority, namely the U.S. Court of Appeals and the U.S. Court of Appeals for the Federal Circuit. The U.S. Court of Appeals serves as the appellate court for decisions originating from the U.S. Tax Court and the U.S. District Court. In contrast, the U.S. Court of Appeals for the Federal Circuit functions as the appellate court for decisions arising from the U.S. Court of Federal Claims. Furthermore, appeals against decisions rendered by the U.S. Court of Appeals and the U.S. Court of Appeals for the Federal Claims can be submitted to the U.S. Supreme Court for cassation.

*The Position of the Tax Court in Australia*

Tax disputes in Australia are initially resolved through an objection to the Commissioner (equivalent to the Director General of Taxes in Indonesia). Should the decision be contested, it may then be reviewed at the Administrative Appeals Tribunal. Following this, an appeal can be made to federal courts, progressing through various levels, with the highest authority being the High Court.

Australia does not have a dedicated tax court; however, it has a long history of administrative courts with expertise in tax matters. Despite significant constitutional differences between courts and tribunals, the main practical distinction is that courts are part of the executive and are generally subordinate to the administrator when making decisions. Appeals to court administration can only be pursued for reasons recognized in administrative law, such as decisions made beyond the authority granted or instances where decisions are deemed unreasonable or in violation of natural justice. Australia maintains objective institutions for these matters.

### *Position of the tax court in russia*

The Tax Court in Russia has a strategic position in the country's judicial system and tax administration. The following is the position and role of the Tax Court in Russia:

Hierarchical Structure

1. Supreme Court of Russia (supreme)
2. Tax Appeals Tribunal (intermediate)
3. Federal Tax Court (FTS) (first instance)

Position in the Justice System

1. The Tax Court is independent and independent of the Federal Tax Service (FNS).
2. The Tax Court has the authority to handle tax disputes and taxpayer objections.
3. The Tax Court is responsible for interpreting tax laws and related regulations.

Role of the Tax Court

1. Resolving tax disputes between taxpayers and FNS.
2. Interpret tax laws and related regulations.
3. Supervise FNS activities in collecting taxes.
4. Protecting taxpayers' rights.
5. Increasing legal certainty and fairness in the taxation system.

Jurisdiction

1. The Federal Tax Court (FTS) has jurisdiction throughout Russia.
2. The Court of Tax Appeals has jurisdiction over several federal territories.
3. The Supreme Court of Russia has supreme jurisdiction.

### *Legal Basis for Objection Fines and Appeal Fines Based on Law*

Tax law can be divided into two, namely: formal tax law and material tax law. Formal tax law contains provisions that support material tax law provisions, which are necessary to implement or complete material legal provisions. After the 1983 tax reform, formal tax law provisions in Indonesia were regulated in Law Number 6 of 1983 which was amended by Law Number 9 of 1994, Law Number 16 of 2000, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures; Law Number 17 of 1997 concerning Tax Dispute Resolution

Agency; as well as Law Number 19 of 1997 which has been amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter.[47]

These three laws apply to all types of taxes, such as income tax, value added tax, and luxury goods sales tax. In addition, criminal law has a relationship with tax law. Criminal law, as regulated in the Criminal Code (KUHP), is a broad legal system that also applies to criminal incidents described outside the Criminal Code. Indonesian legislators have obtained the right to deviate from the regulations contained in the Criminal Code starting 16 May 1927. This opportunity is widely used because even administrative regulations really require sanctions that guarantee they will be questioned by the general public. If these provisions deviate from the general provisions of formal tax law that have been regulated, the relevant tax law may also contain formal provisions.

According to the *adage fiat justicia et pereat mundus* (even though the law must be enforced if the world collapses), or *lex dura sedtamen scripta* (the law is harsh, that is how it sounds or is, for the safety of its enforcement). Therefore, there is legal certainty that will create public order. According to Sudikno Mertokusumo, the aim of law is to create legal certainty for the sake of public order. There are those who argue that enforcing the law is the same as enforcing the law for the sake of legal security. This opinion is influenced by the idea that law is a collection of positive rules consisting of a legislative system. This condition is not wrong because Indonesia's positive legal system is influenced or influenced by the Dutch legal system, which is used to a written system, and the legal system built by Indonesia does adhere to a written system.

When judges carry out their judicial function of examining, adjudicating and deciding cases, they are required to follow positive law, so that the function of judges as law enforcers is only limited to carrying out their duties as law enforcers. The view of legal positivism gives rise to legal legism in judges.

In this context, the role of the judge is perceived primarily as a mere mouthpiece for the law (la bouche des lois). Judges function as implementers of statutory provisions, resulting in a situation where law enforcement by judges during the judicial process is not similar to upholding justice. Instead, judges tend to prioritize legal certainty through a formalistic approach to statutory provisions, which can overshadow the broader principles of equity and justice.

In the context of the Taxation Law, the rights guaranteed in Article 28D paragraph (1) of the 1945 Constitution do not constitute a guarantee that taxpayers cannot be subject to administrative sanctions in the form of fines as regulated in the Taxation Law. Article 25 paragraph (9) and Article 27 paragraph (5d) of Law 28/2007 are actually in line with Article 28D paragraph (1) of the 1945 Constitution considering that these provisions apply to all taxpayers who submit objections or appeals. In law enforcement, if judges only pay attention to legal certainty, the element of justice will be neglected. This is because judges simply apply the law in their decisions, and the result is formal truth.

In this case, the judges only need to find and determine the law that applies to specific events that have been proven in the judicial process, regardless of whether the provisions found in the articles of the law being applied fulfill a sense of justice or not, or whether they are beneficial or not for justice seekers. The judges' attitude is not wrong in the context of

[47] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

the legal (judicial) process. Judges cannot be subject to administrative or criminal sanctions if their performance and behavior violate procedural law procedures (for example, behaving unprofessionally) or their behavior when carrying out their judicial duties.

Judiciary in the tax field is founded on the principle of justice. If tax collection that is not in accordance with the Taxation Law is unfair, this can cause disputes between Taxpayers and authorized officials. Taxpayers' rights can be corrected in the Tax Court.

***Principles of Justice for Objection Fines and Appeal Fines Imposed on Taxpayers***

Indonesia is a rule of law state, characterized by a modern welfare which desires to realize justice for all Indonesians. The current government has many responsibilities to safeguard public interests and sometimes violates rights. However, this can be avoided by complying with applicable tax laws. Tax law allows the government to obtain funds to fulfill state obligations. Taxes and other levies that are coercive for state needs are regulated by law as a rule of law characterized by a modern welfare state.[48]

The principle of legality is providing legal protection for taxpayers when the country requires taxes.[49] Currently, most tax collection systems use a self-assessment system, where the focus of tax activities is on the taxpayer. This system allows taxpayers to calculate the amount of tax owed and make payments by themselves.[50] In practice, differences in calculations between taxpayers and tax collectors regarding the amount of tax that must be paid often emerge. The relationship between taxpayers and tax collectors in their actions can cause disagreements that can lead to disputes.

In the case of filing an objection, taxpayers face problems because the Directorate General of Taxes takes a long time to make a decision regarding the objection. One of the problems with the objection resolution process is that many taxpayers believe that previously used objection resolution methods do not prioritize their right to a fair process. The process of resolving tax disputes should be fast, transparent, cheap and simple and provide legal certainty and a sense of justice for the disputing parties during the procedure. In fact, the tax dispute resolution process generally takes up to 36 months.[51] The length of the tax dispute resolution process means taxpayers and DJP cannot immediately receive legal certainty, which will make things difficult for the parties involved in the implementation of tax obligations for subsequent years.[52]

The objection letter must be clear to describe the actual situation. This situation shows the amount of non-tax state revenue owed, either through calculations of mandatory payments or through assessment letters or invoices from government agencies. Therefore, a decree or invoice must be attached to the objection letter so that the party investigating the objection can understand the legal situation behind the objection.

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[48] Ahmad Zaini, 'Negara Hukum, Demokrasi, Dan Ham', *Al Qisthas: Jurnal Hukum Dan Politik Ketatanegaraan*, 11.1 (2020), 13-48 https://doi.org/10.37035/alqisthas.v11i1.3312

[49] Danel Aditia Situngkir, 'Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional', *Jurnal Soumatera Law Review*, 1.1 (2018), 22-42 https://doi.org10.22216/soumlaw.v1i1.3398

[50] Hwei Ming Wong, 'Implementing self-assessment in Singapore primary schools:effects on students'perceptions of self assessment', *Pedagogies: An International Journal,. Pedagogies: An International Journal*, 12.4 (2017). 391-409 https://doi.org/10.1080/1554480X.2017.1362348

[51] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[52] Ajeng Loshita Sari, and Siti Nuryanah, 'Analisis Sengketa Pajak Atas Pembatasan Perbandingan Utang Dan Modal Perusahaan', *Journal Media Riset Akuntansi, Auditing & Informasi*, 23.2 (2023), 203-224 http://dx.doi.org/10.25105/mraai.v23i2.16956

Additionally, the three-month period provides taxpayers with an excessively lengthy opportunity to file objections. The time frame for filing objections should be modified to one month from the date the taxpayer receives their determination. In cases of force majeure, this one-month period may be subject to extension. A Tax Assessment Letter (SKP) is a formal document that includes various types of assessments, such as those for underpayment of tax, additional payment assessments, nil tax assessment letters, or overpayment tax assessment letters. The taxpayer is obligated to pay the tax owed as stipulated in the SKP, without any benefit derived from its existence.

A tax underpayment assessment letter is issued by the Director General of Taxes within a period of 5 years after the tax is due or at the end of the tax period, part of the tax year, or tax year, if the following things occur: 1) If based on the results of an audit or other information, the tax owed is not paid or underpaid. 2) If the notification letter is not submitted within the specified time period and after being warned in writing it is not submitted on time as specified in the warning letter.

At some point, taxpayers have rights that they can exercise or take advantage of. If the tax administration violates their rights, the taxpayer can submit this matter to the superior officer of the officer who violated them or to the tax court if necessary. Taxpayers are classified as central and regional taxpayers. This distribution is based on the fact that central taxpayers and regional taxpayers have different rights. This difference is caused by the provisions regarding the fulfillment of rights between the two.

The KUP regulates the fulfillment of the rights of central taxpayers, which is different from the fulfillment of the rights of regional taxpayers as regulated in the Law. Before submitting objection, taxpayers have the right to request written information regarding matters that form the basis for tax imposition, calculation of losses, or deductions by third parties from the Director General of Taxes through the KPP in their area. Upon request for this information, the Director General of Taxes is obliged to provide information.

The requirements for submitting an objection are as follows: 1) The objection must be made in writing in Indonesian Language, addressed to the Director General of Taxes (for Central Tax) via the local KPP or the Governor (for Provincial Tax), Regent/Mayor (for Regency Tax/City Tax ); 2) the objection must state the amount of tax owed or the amount of tax withheld or collected or the amount of loss according to the Taxpayer's calculations and accompanied by clear reasons; 3) One objection must be submitted for one type and one year/tax period.

The Minister of Finance Regulation also stipulates the procedures for submitting and resolving objections, including the taxpayer's right to be present in order to provide information or gain clarification regarding their objection. The legal consequences of the Director General of Taxes' decision concerning the taxpayer's objection may include: a) granting the objection in its entirety; b) granting it in part; c) rejecting the objection; or d) increasing the amount of tax that must be paid.

Requests to submit objections must be made in writing to the tax official responsible for the type of tax in dispute. The written request should include the reasons on which the calculation is based. To enhance the credibility of the objection, relevant forms of legal documentation from tax officials, as well as evidence of tax withholding or collection, should be attached to the written request. For instance, a tax underpayment assessment letter containing the disputed material or proof of withholding or collection of tax with contested

content should be included. This procedure aims to facilitate a prompt examination of the application by tax officials.

***Objections or Appeals Regarding Fines Imposed on Taxpayers in the United States, Australia, and Russia.***

*The United States of America*

The regulations governing the Tax Court in the United States are outlined in the Tax Court Rules, which comprise the Rules of Practice and Procedure, as well as the regulations pertaining to objections and appeals. Various countries acknowledge and protect taxpayers' rights through formal recognition in laws, other legislative instruments, and administrative documents. International organizations have contributed to the development of taxpayer rights. England, New Zealand, and Australia were among the first countries to adopt a "Taxpayer Charter" as a means to assist taxpayers and inform them of their rights.[53]

The United States published a publication explaining the rights of taxpayers in Publication 1, entitled "The Taxpayer Bills of Rights" in 2014. This publication is to inform taxpayers' rights in the process of tax audit objections and appeals, tax collection and refunds. These taxpayer rights include: 1) the right to be informed, 2) the right to quality service, 3) the right to pay no more than the correct amount of tax, 4)the right to challenge the irs's position and be heard, 5) the right to appeal an irs decision in an independent forum, 6) the right to finality, 7)the right to privacy, 8) the right to confidentiality, 9) the right to retain representation, and 10) the right to a fair and just tax system.

The entire process of legal action for a tax dispute that cannot be resolved by the executive agency (administrative remedies) may be submitted to the "Trial Courts." The Trial Courts consist of three courts: 1) U.S. Tax Court; 2) U.S. District Court; and 3) U.S. Court of Federal Claims. Taxpayers may choose one of these three courts to adjudicate disputed tax cases. If either the taxpayer or the tax authority is dissatisfied with the outcome, the dispute may be escalated to the Court of Appeals or the U.S. Court of Appeals for the Federal Circuit. Should the decision from the Court of Appeals be deemed unsatisfactory, the parties involved may subsequently appeal to the Supreme Court.

*Australia*

Tax Court regulations in Australia are governed by the Income Tax Assessment (1997 Act) Regulations 2021. Australia also recognizes taxpayer rights in the Taxpayers' Charter document. Other countries, such as Canada, England, and the Netherlands, have similarly acknowledged taxpayer rights in various documents, including taxpayer rights charters or the Taxpayers' Charter. However, the formal recognition of taxpayer rights in specific documents is not uniformly implemented across all countries. In Indonesia, for instance, the tax law system does not include separate documents specifically recognizing taxpayer rights. The establishment of a distinct document, such as a taxpayer's charter or a similar framework for recognizing taxpayer rights, would facilitate taxpayers' understanding of and access to their rights, including the procedures for legal recourse in cases where those rights are violated.

[53] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

If taxpayers perceive that they have been treated fairly and that their rights have been upheld, it is anticipated that this will enhance taxpayer compliance with their tax obligations. Australia recognizes the rights of its taxpayers through the acknowledgment of mutual rights and obligations between tax authorities and taxpayers. This recognition is encapsulated in the "Australian Taxpayers' Charter of Rights." Fulfilling the rights of taxpayers is a responsibility of the tax authorities, and conversely, taxpayers also have associated obligations. These rights and obligations are articulated as follows: What you (taxpayers) can expect from us (the tax authority): 1) your rights and obligations; 2) what you can do if you are not satisfied.

Your rights, you can expect us to: 1) Treat you fairly and reasonably. 2) Treating you as being honest unless you act otherwise. 3) Offering you professional service and assistance. 4)Accepting you can be represented by a person of your choice and get advice. 5) Respect your privacy.

*Russia*

There are 3 types of fines in Russia, namely:

1. Administrative fine: 10-50% of the unpaid tax amount.
2. Penalty for late payment: 1/300 of the unpaid tax amount per day.
3. Fines for violation of tax regulations: 10-100% of the amount of unpaid tax.

The amount of fines for late tax payment is set at 1/300 of the tax amount per day; for failure to report tax, the fines range from 5% to 10% of the tax amount; and for errors in tax reporting, the fines range from 1% to 5% of the tax amount. The first step in the fine payment procedure involves taxpayers receiving a fine decision letter from the Federal Tax Service Office (FNS). Taxpayers are required to pay the fine within 30 days, with payment options available either through a bank or online. To submit an objection, the taxpayer must first lodge an objection with the FNS within 10 days. The FNS will then consider the objection and issue a decision. If the objection is rejected, the taxpayer may subsequently appeal to the Federal Tax Court.

*Outline Comparison of Objections and Appeals*

In the USA, the material that can be objected to is the statutory notice of deficiency. If the taxpayer does not agree with the auditor's correction at the closing conference, the taxpayer has 30 days to consider it. If within 30 days the taxpayer does not respond, the United States tax authority (IRS) issues a statutory notice of deficiency. Upon statutory notice of deficiency, taxpayers are given 90 days to submit an objection (petition) to the Tax Court using a special form. However, in some instances a taxpayer may choose not to respond to the 30-day letter. In this case they will receive a 90-day letter whereby they may instead choose to enter the disputes process at the stage where they file a petition in the US Tax Court.[54]

Objections are processed by the U.S. Tax Court. The Tax Claim Court and District Court will not consider a taxpayer's objection request if it is submitted late, if the taxpayer has not paid the amount of tax owed as specified in the SKP, or if the request for an administrative refund has been rejected by the IRS. Objections do not affect the collection period (Collection

[54] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86* https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

Statute Expiration Date/CSED), unless there is a delay (suspension) or an extension of the time period in certain cases. The settlement period must not exceed the CSED. A decision on an objection may either reduce or increase the tax owed.

For each payment of excess tax payments to taxpayers, the United States tax authority (the Internal Revenue Services) will make the payment accompanied by an interest reward. The amount of interest compensation is set at the Federal Short-term rate plus 0.5% for certain corporations, plus 2% for corporations and plus 3% for taxpayers other than corporations. In Australia, taxpayers can choose to report notification letters on paper or electronically. In the event that a taxpayer asks for help from a tax agent to prepare their notification letter, they are required to use electronic reporting.

The Australian Tax Office (ATO) will notify taxpayers of the installment rate, allowing them to be aware of the amount they are required to pay. The deadline for annual tax return reporting for individuals is four months after the end of the tax year, whereas for companies, it is seven months. This deadline may be extended if the report is submitted through a tax agent. The ATO also provides taxpayers with the opportunity to correct their notification letters through a self-amendment procedure. Self-amendments can be made by taxpayers via telephone to the ATO. Regarding objections, all decisions made by the commissioner may be submitted as part of the objection materials.

Taxpayers may submit objections to the assessment within a period of 60 days, within four years from the original assessment (two years for certain taxpayers), and for private rulings, within 60 days, within four years from the deadline for submitting the SPT (two years for certain taxpayers). Objections should be submitted to the Commissioner. During the objection process, the tax debt must still be paid, even if the taxpayer disagrees with the assessed amount. However, the Commissioner typically agrees to postpone payments by 50% if there is a genuine dispute.

The Commissioner completed the objection process within 56 days (8 weeks). If the ATO does not make a decision within 60 days after submitting an objection, the taxpayer can write a notification to the ATO to obtain a decision. If the ATO does not make a decision within 60 days after this notification, the WP's objection is considered not granted, which means allowing the WP to obtain an external review from the court or tribunal. If the ATO requests additional information, this 60 day period begins when the taxpayer provides the requested information.

The ATO provides a standard form for submitting objections. If taxpayers disagree with the objection decision, they may submit an appeal to the Administrative Appeals Tribunal (AAT) or to the Federal Court. In Russia, the procedure for filing an objection requires the taxpayer to submit their objection to the Federal Tax Service (FNS) within 10 working days after receiving the tax decision letter. The taxpayer must complete the objection form and attach supporting documents (such as the tax decision, proof of payment, etc.), then submit the objection either in writing or electronically. To submit an appeal, the taxpayer must file an appeal with the Federal Tax Court (FTS) within 10 working days after receiving the FNS decision. The taxpayer should fill out the appeal form and attach supporting documents (including the FNS decision, proof of payment, etc.), submitting the appeal in writing or electronically. The required initial documents include the objection or appeal form, the tax decision from the FNS, proof of payment, identity documents (such as a passport or NPWP), and any additional supporting documents. The filing addresses are as follows: Federal Tax

Service (FNS) at [local FNS office address] and the Federal Tax Court (FTS) at [local FTS court address]. The administrative fee for filing is between 300 and 500 rubles, while the appeal fee ranges from 1,000 to 2,000 rubles. The completion time for an objection is 30 working days, and for an appeal, it is 60 working days.

In Indonesia, the process for filing objections and appeals differs significantly from that in other jurisdictions. Under the current tax law, several legal remedies are available to taxpayers or tax bearers who feel disadvantaged by the fiscus, including objections, appeals, lawsuits, and judicial reviews. This contrasts with other judicial institutions, where the available legal remedies encompass lawsuits, appeals, cassation, and judicial review. Legal action for objections is a legal mechanism that is resolved within the government framework. In contrast, appeals and lawsuits are legal remedies for which the resolution (examination and decision) occurs at the Tax Court. The current institution responsible for tax justice is the Tax Court, which was established under Law Number 14 of 2002 concerning the Tax Court.[55]

The absolute jurisdiction of the Tax Court is to examine and adjudicate tax disputes in the form of tax appeals and lawsuits. This raises concerns regarding the independence of the objection institution, as tax disputes occur between taxpayers and the government (Directorate General of Taxes), yet the entity responsible for examining and resolving these disputes is also the Directorate General of Taxes. This situation creates a potential conflict of interest, given that the objection institution currently operates under the Directorate General of Taxes.

There are issues of fairness in litigation at tax objection institutions. This is evident in the provisions of the KUP Law, which impose a penalty of 50% of the tax owed if the taxpayer's objection is either rejected or only partially granted. Such sanctions can instill a sense of "fear" among taxpayers regarding the filing of objections, as the associated risks—particularly the threat of substantial fines—are considerable.

In summary, there are significant differences in the institutions adjudicating taxpayer disputes in the United States, Australia, and Russia compared to Indonesia. In the former countries, there are efforts to mediate tax disputes through independent external institutions that operate at a lower cost, with decisions rendered promptly, and these institutions exist outside the executive branch, functioning as judicial entities.

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### 3.2. Efforts that need to be made in order to increase fiscal justice in Indonesia based on the results of a comparative study of 4 countries (Indonesia, Australia, the USA, and Russia) for realizing justice for taxpayers and the Indonesian people from a human rights perspective.

The formulation of taxpayers' rights identifies several key entitlements that must be afforded ideal treatment, including: 1) the right to be informed, assisted, and heard; 2) the right of appeal; 3) the right to pay no more than the correct amount of tax; 4) the right to certainty; 5) the right to privacy; and 6) the right to confidentiality and secrecy.[56]

[55] Budi Ispriyarso, 'Upaya Hukum Dalam Sengketa Pajak', *Jurnal Hukum Administrasi dan Pemerintahan*, 1.1 (2018), 9-14 https://doi.org/10.14710/alj.v1i1.9-14

[56] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

The formulation of taxpayer rights encompasses the substance of tax law, which includes tax laws and regulations; the structure of tax law, comprised of the institutions or agencies that administer it; and the tax law culture, which can serve as a mechanism to promote justice for the government, taxpayers, and society. The rights to receive information, assistance, and have complaints heard are integral to ensuring that taxpayers can fulfill their tax obligations accurately. Taxpayers also have the right to receive correct information regarding their rights in relation to the tax obligations they must fulfill. They are entitled to know what is required of them to comply with statutory provisions. The right to receive assistance specifically refers to guidance and support that enable taxpayers to meet their tax obligations properly and accurately. This right necessitates two-way communication between taxpayers and the tax administration.

Communication may originate from the tax administration when there are important information and provisions that taxpayers need to understand. Such communication can take the form of mass information dissemination through media, distribution of flyers, or conducting informational counseling sessions. Conversely, taxpayers may initiate communication when they require information and knowledge from the tax administration.

Taxpayers can request special consultation regarding the tax problems they face. The right to have their complaints heard concerns statements of disagreement with tax administration actions and dissatisfaction with the services provided to taxpayers. In fulfilling taxpayers' rights, tax administration is obliged to provide administrative services to taxpayers. Tax administration is open to complaints, criticism and input from taxpayers so that the services provided to taxpayers can meet taxpayers' expectations. General Provisions and Tax Procedures regulate tax administration procedures.

***Principles of Justice for the Government, Taxpayers and Indonesian Society regarding Objection Fines and Appeal Fines Human Rights Perspective***

Due to incompetence in law enforcement and errors in the formulation of legal remedies, the judiciary in the field of taxation in Indonesia has been unable to fulfill a sense of justice and equality of legal standing for the government, taxpayers, and society. Filing legal action may subject taxpayers seeking justice to administrative or judicial fines. Furthermore, friction between taxpayers may arise due to the government's inadequacies in implementing the self-assessment system and the deficiencies of the tax judiciary in producing quality outcomes.

The philosophy of legal action serves as a means for all individuals seeking justice to advocate for their rights equally before the law. Taxpayers, who possess both obligations and rights as regulated by law, are no exception. In the domain of taxation, institutionalized legal mechanisms include objections and appeals. An objection is a recourse that can be submitted by a taxpayer regarding a tax dispute pertaining to the amount of tax owed to the Director General of Taxes. If the taxpayer is dissatisfied with the Objection Decision, they may subsequently submit an Appeal to the Tax Court as the next legal remedy.

During the reform period, society demanded transparency, freedom, democratization, and equality before the law, which significantly impacted the administration of justice. The principle of equality of legal status asserts that no citizen should enjoy privileges, including in the domain of tax justice, whether as an individual or as a state official. The concept of a legal state comprises the requirement that state power or sovereignty must be exercised in

accordance with the law, and vice versa. In the framework of social justice, there is no distinction between civil and political rights and social, economic, and cultural rights. These two fundamental categories of human rights should exist in harmony; neither should take precedence over the other in their implementation.

In principle, the state is entitled to demand and accept the obligations of citizens for the welfare of the state. However, this must be grounded in the respect and recognition of human rights principles enshrined in various articles of the 1945 Constitution of the Republic of Indonesia. Moreover, several provisions within Law Number 14 of 2002 concerning the Tax Court must reflect the recognition and respect for every citizen while simultaneously ensuring a sense of justice.

Law Number 14 of 2002 concerning the Tax Court contains provisions that legitimize government power and state authority over citizens. Therefore, the separation of powers among the executive, legislative, and judiciary branches must be upheld to ensure a balance of power that provides mutual oversight. Through Law Number 14 of 2002, state and government administrators may act in accordance with interests that can conflict with a sense of justice and legal certainty.

The relationship between taxpayers and the fiscus often reflects a de facto inequality, despite the fact that this balance has been addressed de jure in Article 36A of Law Number 28 of 2007 concerning General Provisions for Tax Procedures. As a result of taxpayers' limited understanding of the law and the fiscus' misguided perspective, there frequently exists a relationship dynamic that positions taxpayers merely as subjects of burden within the taxation process.

The choice of language and non-strategic explanations may indicate that the paradigm used in designing regulations tends to prioritize negative perceptions towards one of the parties involved in the process. The consequences of ambiguous clauses in the law can also affect the implementation phase. For instance, the concept of good faith must be articulated in a manner that is practically acceptable to both the fiscus and taxpayers through established technical mechanisms. The strategy of integrating normative clauses into common practice is essential for facilitating effective communication between the two parties. This obligation should be supported by appropriate incentives and disincentives. Although this may not be an easy task, it is believed that the quality of communication will improve if the communication tools are robust. This improvement results in clarity and a shared understanding with a common language regarding the definition of good faith.

Conversely, to ensure equitable treatment and foster a healthy relationship, the fiscus must also demonstrate corresponding good faith. For example, the law should mandate regular peer reviews by parties deemed capable of assessing the quality of the fiscus's work in audits. These practices should be clearly defined and understood by professionals in the relevant fields.

From the analysis, it can be concluded that to achieve justice and fair legal certainty for all parties involved, the position of the fiscus as the "state" holds absolute power in calculating and determining the amount of tax that taxpayers must pay, as well as in making decisions regarding the objection requests submitted by taxpayers. This concentration of power in the hands of the fiscus has the potential for misuse, as it may lead to the pursuit of

unilateral gains, given that the individual examining the taxpayer's objection is the direct superior of the fiscus responsible for conducting the audit and determining the tax amount.

Furthermore, if a taxpayer files an objection and/or appeal, they are at risk of incurring a fine if they are unsuccessful. As outlined in Article 25, paragraph (9) and Article 27, paragraph (5d) of Law Number 28 of 2007 concerning General Provisions for Tax Procedures, these provisions do not reflect the principle of equality of legal status (where taxpayers/citizens stand equal to the fiscus in the pursuit of justice). Such stipulations contravene Article 27, paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which presents an obstacle for citizens seeking justice.

The provisions in Article 25, paragraph (9), and Article 27, paragraph (5d) of the KUP Law pose a threat to taxpayers seeking justice, thereby violating constitutional rights as stipulated in Article 28D, paragraph (1), and Article 28G, paragraph (1) of the 1945 Constitution. These articles hinder taxpayers from pursuing justice, further contravening constitutional rights as outlined in Article 28H, paragraph (2).

Moreover, the content of Article 25, paragraph (9), and Article 27, paragraph (5d) of the KUP Law is inconsistent with the principles of tax collection, specifically the principles of equal treatment, equality, and justice (equity). Ideally, the legal relationship between taxpayers and the fiscus should be regulated uniformly regarding penalties and payments. Errors in calculating the tax obligations of taxpayers are not solely attributable to the taxpayers themselves; the fiscus may also make mistakes, whether intentionally or unintentionally, in determining the correct tax amount. Therefore, it is unreasonable for taxpayers to bear the consequences of such errors. The imposition of sanctions against taxpayers seeking justice should be eliminated, as it contradicts the principles of the rule of law.

## 4.Conclusion

This study has shown that Law Number 28 of 2007 concerning General Provisions on Tax Procedures in Indonesia does not provide fair legal certainty because of the Fiscus' absolute power in determining the amount of tax and objection decision, which is contrary to the principle of equality of legal standing in Article 27 paragraph (1) of the 1945 Constitution. In Indonesia, taxpayers face the risk of fines of 30% to 60% for losing objections and appeals, in contrast to the United States which has three tax judiciary institutions with the principle of information disclosure, Australia which provides neutral mediation through the ATO as well as an appeals process that includes internal and external channels, and Russia which has 4 levels of tax justice institutions with the principle of independence.

To improve fiscal justice in Indonesia, it is necessary to fulfill taxpayers' rights such as the right to obtain information, guidance, be heard, the right to appeal, the right to pay taxes according to the correct amount, the right to certainty, privacy and confidentiality, as well as the application of the principle of openness in the Tax Court to ensure transparency, enable public oversight, and improve court performance.

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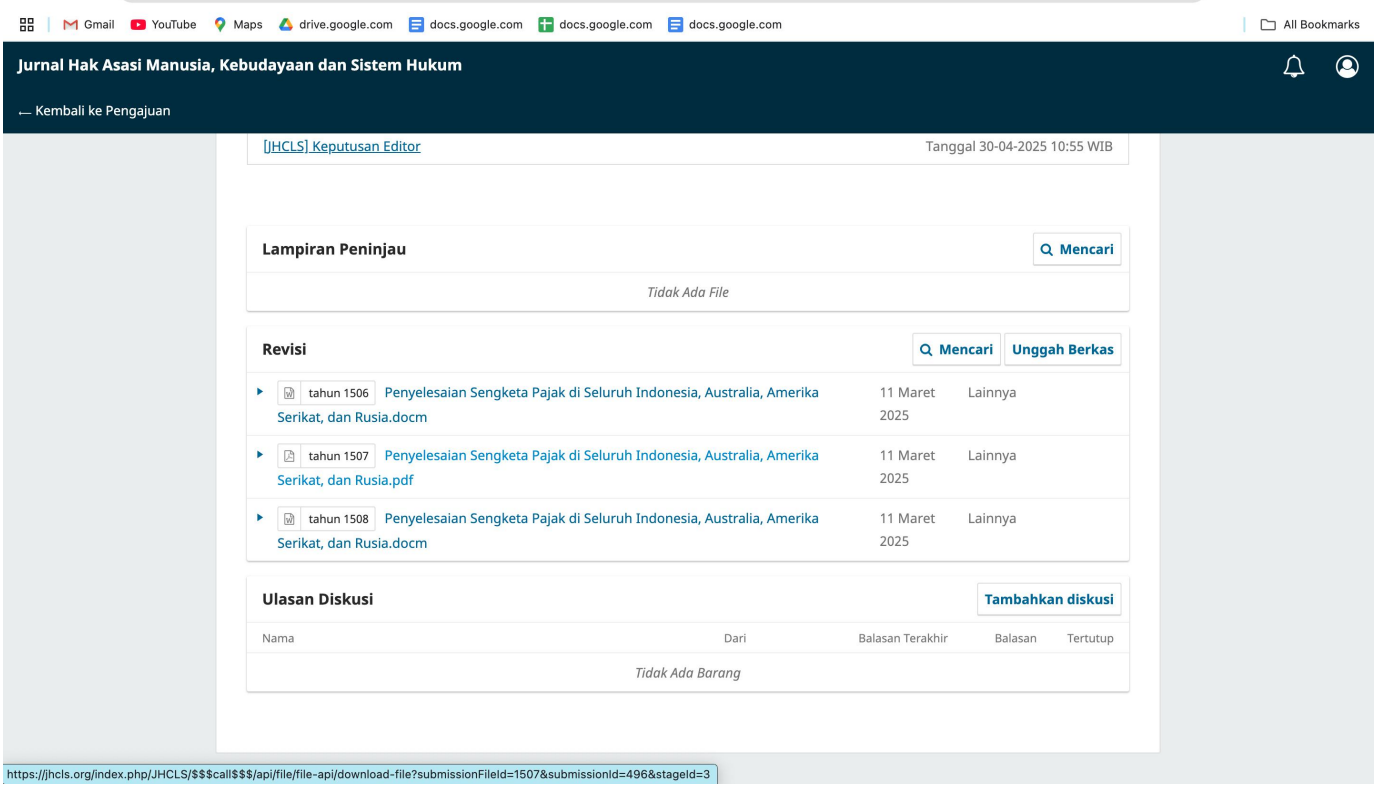
**Tax Dispute Resolution Across Indonesia, Australia, the USA, and Russia**



# Tax Dispute Resolution Across Indonesia, Australia, the USA, and Russia

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ABSTRACT

The tax dispute resolution system is an important aspect of tax administration in every country. Tax disputes often arise due to differences in interpretation between Taxpayers and tax authorities regarding tax provisions, tax assessments, or the implementation of tax obligations. By comparing tax dispute resolution systems in various countries, best practices can be identified that can be applied to improve the tax system at the national level. This comparison is also expected to provide new insights and useful recommendations for stakeholders in an effort to improve a fairer, more transparent, and more efficient tax dispute resolution system. This type of research is normative legal research, using a comparative approach by conducting a comparative study. The theoretical basis used by the author is the theory of justice. The results of this study indicate that Indonesia and the United States have a more structured system with special institutions for tax disputes (Tax Court and United States Tax Court), while Australia and Russia rely on the general or administrative justice system. Australia and the United States are more advanced in the use of Alternative Dispute Resolution (ALR) such as mediation and arbitration, which can reduce the burden on the courts and speed up settlement. Russia has a simpler system but lacks specialist means of handling tax disputes. Indonesia has a clear legal framework for tax disputes, but needs to improve efficiency and the use of alternative dispute resolution methods. The solution for each country is that Indonesia can learn from Australia and the United States in terms of the use of Alternative Dispute Resolution (ALDR) such as mediation and arbitration to expedite dispute resolution. Australia and the United States have shown that administrative efficiency and good ADR programs can reduce the burden on the courts. Russia can consider establishing a dedicated tax court and increasing the use of mediation to improve the efficiency of dispute resolution. Indonesia also needs to improve transparency, human resource capacity, and taxpayer education to build a fairer and more efficient system. By learning from each other's best practices, tax dispute resolution systems around the world can become more effective, fair, and efficient.

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# 1. Introduction

Tax dispute resolution refers to the process of resolving disputes or conflicts between Taxpayers and tax authorities (such as the Directorate General of Taxes/DGT) regarding the application of tax provisions.[1] Tax disputes may arise due to differences in interpretation of tax regulations, disagreements regarding the amount of tax payable, or other issues relating to tax rights and obligations.[2]

The tax dispute resolution process involves various mechanisms, both through administrative channels (such as filing objections) and legal channels (such as appeals to the Tax Court or other legal remedies).[3] The goal is to achieve a resolution that is fair, transparent, and in accordance with applicable laws and regulations.[4]

An effective tax dispute resolution mechanism is essential for various parties, including Taxpayers, tax authorities and the government.[5]

An effective tax dispute resolution mechanism can increase taxpayers' trust in the tax system.[6] With trust, taxpayers will be more compliant in fulfilling their tax obligations, which ultimately increases tax revenues.[7] An effective mechanism provides legal certainty for taxpayers and tax authorities.[8] Legal certainty reduces uncertainty and legal risk, which can encourage investment and economic growth.[9] A fast and efficient dispute resolution process reduces the administrative burden on tax authorities.[10] This allows tax authorities

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[1] Budi Ispriyarso, Athasius P. Bayuseno, and Harlida Abdul Wahab, 'Legal Reformation of Tax Court in Indonesia: Reforming Legal Culture, Institutional and Legislative Aspects', *International Journal of Criminology and Sociology*, 10.1 (2021), 722-728 https://doi.org/10.6000/1929-4409.2021.10.86

[2] Wahyu Kartika Aji, Ristanti Khusnul Khosafiah, Teta Dirgantara Jusikusuma, and Ferry Irawan, 'Penyelesaian Sengketa Pajak Atas Gugatan Dan Sanggahan: Suatu Perspektif Keadilan', *Jurnal Pajak Indonesia (Indonesian Tax Review),* 6.1 (2022), 80-88 https://doi.org/10.31092/jpi.v6i1.1601

[3] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan,* 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

[4] Wahyudi, 'Membangun Lembaga Keberatan Pajak Independen Dan Adil', *Journal of Law and Nation (JOLN),* 1.1 (2022), 48-57 https://joln.org/index.php/joln/article/view/8

[5] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8.*1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[6] Ramadhania Deninta Sismi, and Dwi Martani, 'Analysis of thin capitalization on listed companies in Indonesia and Australia', *E-book Urbanizing the Regional Sector to Strengthen Economy and Business toRecover from Recession*, ISBN: 978-1-032-30070-2 (2023), 232-246 https://doi.org/10.1201/9781003303336-27

[7] Daryanti, Asriana, and Astuty Hasti, 'Etika dan Keadilan Pajak dalam Perspektif Islam', *Jurnal Akmen*, 21.1 (2024), 61-70 https://doi.org/10.37476/akmen.v21i1.4611

[8] Resmaya Agnesia Mutiara Sirait, 'Pelaksanaan Kebijakan Penyanderaan Pajak (Gijzeling) Dilihat Dari Perspektif Hak Asasi Manusia', *Journal Sasi*, 26.1 (2020), 9-19 https://doi.org/10.47268/sasi.v26i1.192

[9] Artha Polma Naibaho, Nyoman Serikat P , and Budi Ispriyarso, 'Paksa Badan (Gijzeling) Sebagai Instrumen Penagihan Pajak (Kajian Yuridis Dari Perspektif Hukum Pidana)', *Diponegoro Law Journal,* 5.3 (2016), 1-16 https://doi.org/10.14710/dlj.2016.11959

[10] Ismiani Aulia, and Nera Marinda Machdar, 'Upaya Hukum Dalam Penyelesaian Sengketa Pajak Pada Pengadilan Pajak: Suatu Perspektif Keadilan', *Sinomika Journal*, 2.3 (2023), 603-620 https://doi.org/10.54443/sinomika.v2i3.1471

to focus on other more strategic tasks, such as improving tax compliance and combating tax evasion.[11] An effective mechanism reduces the costs and time spent by taxpayers and tax authorities in resolving disputes.[12] This reduction in costs and time can increase efficiency and productivity for both parties.[13] An effective mechanism ensures that tax disputes are resolved fairly and transparently.[14] Fairness and openness increase public trust in the tax system and government.[15] An effective tax dispute resolution mechanism creates a stable and predictable business environment.[16] This encourages foreign and domestic investment, which ultimately supports economic growth.[17]

An effective mechanism can reduce the amount of unnecessary litigation and facilitate the amicable resolution of disputes.[18] This reduces the burden on the courts and allows resources to be used for more important cases.[19] An effective tax dispute resolution mechanism enhances the country's reputation in the eyes of international investors and global financial institutions.[20] A good reputation can attract more foreign investment and

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[11] Mirna Palipuri Amir, Jaqueline E. M. Tangaku, and Michael Miran, 'Analisis Tax Planning Pada Pt. Hutama Surya Perdana Di Mamuju', *JAIM: Jurnal Akuntansi Manado*, 2.2 (2021), 240-248 https://doi.org/10.53682/jaim.v2i2.1323

[12] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[13] Syanti Dewi, Widyasari Widyasari, and Nataherwin Nataherwin, 'Pengaruh Insentif Pajak, Tarif Pajak, Sanksi Pajak Dan Pelayanan Pajak Terhadap Kepatuhan Wajib Pajak Selama Masa Pandemi Covid-19', *Jurnal Ekonomika dan Managemen*, 9.2 (2020), 108-124 https://dx.doi.org/10.36080/jem.v9i2.1248

[14] Orin Ndari Ervana, 'Pengaruh pemeriksaan pajak, keadilan pajak dan tarif pajak terhadap etika penggelapan pajak (Studi kasus pada kantor pelayanan pajak pratama Klaten)', *Jurnal Akuntansi Pajak Dewantara,* 1.1 (2019), 80-92 https://doi.org/10.24964/japd.v1i1.802

[15] Ni Putu Purnama Sari, I Made Sudiartana, and Ni Luh Gde Mahayu Dicriyani, 'Pengaruh Keadilan Pajak, Sistem Perpajakan, Tarif Pajak Dan Sanksi Perpajakan Terhadap Persepsi Wajib Pajak Badan Mengenai Etika Penggelapan Pajak (Tax Evasion)', *Kumpulan Hasil Riset Mahsiswa Akuntansi (KHARISMA)*, 3.1 (2021), 140-149 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1687

[16] Wa Mareza Dwi Nugraheni, Hadi Pramono, Ani Kusbandiyah, and Nur Isna Inayati, 'Pengaruh Perencanaan Pajak, Aset Pajak Tangguhan, Beban Pajak Tangguhan, Free Cash Flow, Profitabilitas dan Kepemilikan Manajerial yang Mempengaruhi Manajemen Laba (Studi Kasus pada Perusahaan Sektor Consumer Non-Cyclicals periode 2019-2021)', *JEMSI (Jurnal Ekonomi, Manajemen, Dan Akuntansi*), 9.3 (2023), 628-641 https://doi.org/10.35870/jemsi.v9i3.1106

[17] Mardhiyah Alfath Annisaa, and Siti Nuryanah, 'Evaluasi Manajemen Perpajakan Atas Pajak Pertambahan Nilai (Studi Kasus Pada Perusahaan Start-Up X)', *Journal of Economics and Business UBS,* 12.4 (2023), 2532-2549 https://doi.org/10.52644/joeb.v12i4.408

[18] Anindya Nariswari, Sarah Selli Ardelia, Puji Wahono, and Indra Pahala, 'Manajemen Perpajakan: Analisis Perencanaan Pajak Pertambahan Nilai di Indonesia (Kajian Literatur)', *Jurnal Ekonomi dan Manajemen Teknologi(EMT) KITA*, 8.3 (2024), 854-863 https://doi.org/10.35870/emt.v8i3.2607

[19] Rustian Mushawirya, 'The Position Of The Tax Jurisdiction In The System Judicial In Indonesia', *Journal of Administration Law*, 5.1 (2024), 92-105 https://doi.org/10.22437/mendapo.v5i1.31383

[20] Maralus Samosir, and Yusuf Gunawan, 'Analisa Yuridis Sengketa Pajak Pada Pengadilan Tata Usaha Negara Terhadap Surat Ketetapan Pajak Studi Kasus Putusan Pengadilan No 606 K/Tun/2022', *JUSAPAK Jurnal Studi Akuntansi Pajak Keuangan*, 2.1 (2024), 8-22 https://doi.org/10.61696/jusapak.v2i1.218

improve the country's position in ease of doing business rankings.[21] An effective mechanism ensures that tax decisions are based on careful analysis and strong evidence.[22] This improves the quality of tax decisions and reduces the possibility of errors or unfairness.[23] An effective mechanism encourages the amicable resolution of disputes through mediation and arbitration. This reduces tensions between taxpayers and tax authorities and creates a more harmonious relationship.[24]

Regulatory issues regarding tax dispute resolution in Indonesia cover various aspects, ranging from regulatory complexity, ambiguity in interpretation, to inefficiency in the dispute resolution process.[25]

Tax regulations in Indonesia are often very complex and experience frequent changes, the impact of which is that Taxpayers have difficulty understanding and complying with applicable regulations, and frequent changes cause legal uncertainty and difficulties in interpretation.[26] Many tax provisions are open to multiple interpretations, resulting in differences in interpretation between Taxpayers and tax authorities, disputes often arise due to differences in interpretation and the dispute resolution process becomes longer and more complicated.[27] Tax authorities have great authority in determining the amount of tax payable and issuing tax assessment letters, taxpayers often feel that they do not have equal power in dealing with tax authorities, this can lead to dissatisfaction and distrust of the tax system.[28] The tax dispute resolution process involves several stages (objection, appeal, lawsuit, cassation, and judicial review) which can take years, causing legal uncertainty for

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[21] Ardiansyah, and Wahyudin, 'Politik Hukum Tindak Pidana Perpajakan dalam Perspektif Restorative Justice', *Mimbar Keadilan Journal For Law & Justice*, 16.2 (2023), 221-233 https://doi.org/10.30996/mk.v16i2.7977

[22] Priyambodo Adi, Pajri Arifpadilah, Achmad Iyyan N, Nur Fadhilla Erlis, and Yogi Syahputra Alidrus, 'Penerapan Self-Assestment System Dalam Npwp Sebagai Upaya Progresif Terhadap Eksistensi Pajak Di Indonesia', *Jurnal Indonesia Sosial Teknologi*, 4.7 (2023), 865-874 https://doi.org/10.59141/jist.v4i7.646

[23] Winahyu Erwiningsih, 'Implementasi Penyelesaian Sengketa Pajak Pada Pengadilan Pajak Indonesia', *Justicia Sains: Jurnal Ilmu Hukum*, 6.2 (2022), 248-262 https://doi.org/10.24967/jcs.v6i2.1585

[24] Dedi Sugiyanto, 'Analisis Yuridis Pasal 5 Ayat 2 Undang-Undang Republik Indonesia Nomor 14 Tahun 2002 Tentang Pengadilan Pajak Ditinjau Dari Pasal 24 Ayat 1 Dan Ayat 2 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Al-Adl: Jurnal Hukum*, 13. 1 (2021), 116-134 https://doi.org/http://dx.doi.org/10.31602/al-adl.v13i1.4248

[25] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8*.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[26] Johannes Aritonang, 'Analisis sengketa pajak atas biaya seragam (studi kasus atas Putusan Peninjauan Kembali Nomor 1710/B/Pk/Pjk/2016)', *Simposium Nasional Keuangan Negara*, 1.1 (2018), 497-518 https://api.semanticscholar.org/CorpusID:188956935

[27] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[28] Sudarsono, Tunggul Anshari Setia Negara, and Imam Koeswahyono, 'Tax dispute settlement mediation arrangements in the future tax court', *International Journal of Research in Business and Social Science*, 11.5 (2022), 503-511 https://doi.org/10.20525/ijrbs.v11i5.1867

Taxpayers, hampering investment and economic growth.[29] The limited number and quality of human resources at the Directorate General of Taxes and the Tax Court, the examination and dispute resolution process becomes slow and less effective, the quality of the decisions produced may not be optimal.[30] The costs incurred for the tax dispute resolution process, including legal and administrative costs, can be very high, burdening Taxpayers, especially Small and Medium Enterprises (SMEs), reducing Taxpayers' interest in resolving disputes through legal channels. Lack of transparency and accountability in the tax dispute resolution process leads to distrust in the tax system and the decisions taken may be considered unfair by Taxpayers.[31] Even though there is a Tax Court, there is still a reliance on the general court system for certain cases, resulting in inconsistencies in decisions and handling of tax disputes, making the dispute resolution process longer and more complex. Lack of socialization and education to Taxpayers regarding tax rights and obligations and the dispute resolution process, Taxpayers often do not understand the processes and procedures that must be followed, causing errors and dissatisfaction in the dispute resolution process.[32] Mediation and arbitration as alternatives for resolving tax disputes have not been widely utilized, which has the effect of reducing the effectiveness of resolving disputes quickly and fairly, and then taxpayers tend to choose the longer and more complicated litigation path.

The following is an overview and comparison of the number and mechanisms for resolving tax disputes in Indonesia, Australia, the United States and Russia.[33]

Comparison of Number of Tax Dispute Settlement

| No | Country | Number of Cases per Year | Completion Level | Settlement Mechanism |
|---|---|---|---|---|
| 1 | Indonesia | 2,000-3,000 cases | 70-80% | Objection, Appeal, Lawsuit, Cassation, PK |
| 2 | Australia | 30,000-40,000 objections | 80-90% | Objection, AAT, Federal Court, ADR |
| 3 | United States of America | 100,000-150,000 cases | 90% | IRS Appeals, U.S. Tax Court, Federal Courts, ADR |
| 4 | Russia | 50,000-60,000 cases | 60-70% | Administrative Appeals, Arbitration |

[29] Wellia Novita, Rida Rahim, and Fajri Adrianto, 'Sengketa Pajak dalam Perspektif Wajib Pajak (Studi Kasus Restitusi Pajak ADHI-IBG, KSO)', *Owner: Riset & Jurnal Akuntansi*, 6.3 (2022), 2594-2601 https://doi.org/10.33395/owner.v6i3.950

[30] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan*, 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

[31] Supriyadi, Beny Setiawan, and Randy Matius Bintang, 'Evaluasi Lembaga Keberatan Dalam Penyelesaian Sengketa Pajak Yang Adil Di Direktorat Jenderal Pajak', *Jurnal Pajak Indonesia (Indonesian Tax Review), 2*.2 (2018), 6-19 https://doi.org/10.31092/jpi.v2i2.640

[32] Rasyidah Che Rosli, Lai Ming Ling, and Roslani Embi, 'Tax malfeasance of high net-worth individuals in Malaysia: tax audited cases', *Journal of Financial Crime*, 25.1 (2018), 155-169 https://doi.org/10.1108/JFC-11-2016-0070

[33] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8*.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

| | | | | |
|---|---|---|---|---|
| | | | | Courts, Supreme Court |

From the table above, it can be said that Indonesia has a relatively small number of tax dispute cases, but the settlement process tends to be longer and more complicated.[34] Australia has an efficient dispute resolution mechanism with a high resolution rate through objections and ADR. The United States has a very large number of tax dispute cases, but the resolution rate is also very high thanks to the effective IRS Appeals and ADR mechanisms. Russia has a fairly large number of tax dispute cases, but the resolution rate is lower than Australia and the United States, with many cases being resolved through the courts.

The author compares tax dispute resolution in Indonesia with Australia, the United States, and Russia for several important reasons that are relevant to understanding the global context and learning from best practices in these countries. This comparison is done to provide a broader perspective on how tax dispute resolution can be improved in Indonesia. By studying the systems and practices in Australia, the United States, and Russia, Indonesia can identify areas for improvement and adopt solutions that have proven successful in these countries. This will ultimately help create a fairer, more efficient, and more reliable tax system.

## 2. Research Method

This research is normative legal research,[35] By using legal, conceptual, comparative legal and Systematic Literature Review approaches.[36] Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as previously published journals, with a focus on the theory discussed within a certain scope.[37] A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approaches.[38] This research uses the document study method as the

[34] Anisya Sukmawati, and Aan Bukhori, 'Pelaksanaan Penyelesaian Sengketa Banding Pajak Pertambahan Nilai Di Pengadilan Pajak (Studi Kasus Pada PT. MPFI)', *VOK@SINDO : Jurnal Ilmu-Ilmu Terapan dan Hasil Karya Nyata*, 9.1 (2021), 12-27 https://doi.org/10.21776/ub.vokasindo.2021.009.1.2

[35] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131-46 https://doi.org/10.22219/ljih.v30i1.20764

[36] Jamal Wiwoho, Irwan Trinugroho, Dona Budi Kharisma, and Pujiyono Suwadi, 'Islamic crypto assets and regulatory framework: evidence from Indonesia and global approaches', *International Journal of Law and Management,* 66.2 (2024). 155-171 https://doi.org/10.1108/IJLMA-03-2023-0051

[37] Farhan Saputra, and Habzi Ali, 'Penerapan Manajemen Poac: Pemulihan Ekonomi Serta Ketahanan Nasional Pada Masa Pandemi Covid-19 (Literature Review Manajemen Poac)'. *Jurnal Ilmu Manajemen Terapan*, 3.3 (2022), 316–328 https://doi.org/10.31933/jimt.v3i3.733

[38] Abdul Kadir Jaelani, and Muhammad Jihadul Hayat, 'The Proliferation of Regional Regulation Cancellation in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 121-138 https://doi.org/10.53955/jhcls.v2i2.38

chosen data collection strategy.[39] The data used is secondary data based on literature studies,[40] primary legal materials, namely laws and legal theories,[41] Secondary legal materials consist of books, articles and research findings.[42] As well as studying further primary legal materials at a theoretical level and how they are applied relevantly.[43]

Legal sources in resolving tax disputes in Indonesia include various laws and regulations, legal principles, and international practices.[44] Formal legal sources such as 1945 Constitution, Law Number 6 of 1983 concerning General Provisions and Tax Procedures (KUP), Law Number 7 of 1983 concerning Income Tax (PPh), Law Number 14 of 2002 concerning Tax Court, Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Government Regulation Number 55 of 2012 concerning National Strategy for Prevention and Eradication of Corruption, Regulation of the Minister of Finance Number 9/PMK.03/2013 concerning Procedures for Filing and Resolving Objections, Regulation of the Minister of Finance Number 17/PMK.03/2013 concerning Procedures for Filing and Resolving Appeals, Decree of the Director General of Taxes Number KEP-545/PJ/2000 concerning Procedures for Filing and Resolving Objections, Decree of the Director General of Taxes Number KEP-546/PJ/2000 concerning Procedures for Submitting and Resolving Appeals, and court decisions have binding force, while material legal sources such as the principles of justice and international practice provide a philosophical and contextual basis.

The analytical methods that the author uses to analyze the issue of tax dispute resolution are Normative Legal Analysis and Comparative Legal Analysis. Normative legal analysis focuses on the review of laws and regulations, legal principles, and court decisions (jurisprudence). Comparative legal analysis compares legal systems and

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[39] Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *Journal Of Indonesian Legal Studies*, 8.1 (2023), 243-88 https://doi.org/10.15294/jils.v8i1.67632

[40] Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies : Evidence from China', *Legality : Jurnal Ilmiah Hukum*, 31.2 (2023), 202-223 https://doi.org/https://doi.org/10.22219/ljih.v31i2.25874

[41] Abdul Kadir Jaelani, Muhammad Jihadul Hayat, and others, 'Green Tourism Regulation on Sustainable Development : Droning from Indonesia And', *Journal of Indonesian Legal Studies*, 8.2 (2023), 663-706 https://doi.org/https://doi.org/10.15294/jils.v8i2.72210

[42] Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) 31-42 https://doi.org/10.53955/jhcls.v1i1.5

[43] Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Halal Tourism Sector and Tax Allowance Policy : A Case Study Observed from Normative Problems to Effective Implementation', Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan, 23.2 (2023), 185-210 https://doi.org/10.18326/ijtihad.v23i2.185-210

[44] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024). 299-330 https://doi.org/10.53955/jhcls.v4i2.259

practices in Indonesia with other countries to identify best practices. The countries that the author uses to compare with Indonesia are Australia, America, and Russia.[45]

The mechanism for analyzing legal issues in tax settlement requires a systematic and comprehensive approach. Here the author compares legal issues with practices and regulations in other countries. How do Australia, the United States, or Russia resolve similar issues? Are there any acceptable best practices? The purpose of comparing them is to provide a global perspective and find innovative solutions.

# 3. Results and Discussion

## 3.1. Legal Framework For Tax Dispute Resolution

The legal framework for tax dispute resolution in Indonesia, Australia, the United States (US), and Russia has similarities in terms of general stages, such as internal resolution at the tax authority, appeal to a special tax court, and litigation in a high court. However, there are differences in the details of the procedures, the institutions involved, and the underlying legal framework.[46] The following is a detailed explanation of the legal framework for tax dispute resolution in the four countries:

### 3.1.1 Legal framework for tax dispute resolution in Indonesia

The legal framework for resolving tax disputes in Indonesia has been comprehensively regulated in various laws and regulations, starting from the KUP Law, the Tax Court Law, Government Regulations, PMK, PERDIRJEN, to the decisions of the Constitutional Court and PERMA.[47] Here is the review:

1. Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP). UU KUP is the main legal basis that regulates the procedures for resolving tax disputes. Several important articles in the KUP Law relating to the resolution of tax disputes are: Article 25: Regulates the submission of objections by Taxpayers to Tax Assessment Letters (SKP) or Tax Bills (STP). Article 26: Regulates the examination process and decisions on objections submitted by Taxpayers. Article 27: Regulates the submission of appeals to the Tax Court if the Taxpayer is not satisfied with the objection decision. Article 28: Regulates lawsuits to the Tax Court if the Taxpayer or the Directorate General of Taxes (DJP) is not satisfied with the appeal decision. Article 29: Regulates judicial review to the Supreme Court (MA) if there are strong legal reasons.

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[45] Heru Setiawan, I Gusti Ayu Ketut Rachmi Handayani, M. Guntur Hamzah, and Hilaire Tegnan, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263-298 https://doi.org/10.53955/jhcls.v4i2.263

[46] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331-335 https://doi.org/10.22225/ah.2.3.2020.331-335

[47] Ravi Hafids Maheswara, 'Prinsip-Prinsip Peradilan Pajak DalamPenyelesaian Sengketa Pajak'. *NOTAIRE Journal of Notarial Law*, 3.3 (2020), 441-468 https://doi.org/10.20473/ntr.v3i3.22836

2. Law Number 14 of 2002 concerning Tax Court. The Tax Court Law regulates the establishment, authority, and procedural procedures in the Tax Court. Several important articles in the Tax Court Law are: Article 1: Regulates the establishment of the Tax Court as a special judicial institution tasked with resolving tax disputes. Article 2: Regulates the authority of the Tax Court to examine and decide tax disputes. Article 3: Regulates the procedural procedures in the Tax Court, including filing appeals and lawsuits. Article 4: Regulates the final and binding decisions of the Tax Court.
3. Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations. This Government Regulation regulates the procedures for the implementation of tax rights and fulfillment of tax obligations, including the resolution of tax disputes. Several important articles in this Government Regulation are: Article 1: Regulates the definition and scope of tax disputes. Article 2: Regulates the procedures for filing objections, appeals, and lawsuits. Article 3: Regulates the examination process and decisions on objections, appeals, and lawsuits.
4. Regulation of the Minister of Finance (PMK) and Regulation of the Director General of Taxes (PERDIRJEN). PMK and PERDIRJEN regulate the technical implementation of tax dispute resolution. Some important regulations are: PMK Number 9/PMK.03/2013 concerning Procedures for Filing and Settling Objections: Regulates the procedures for filing and resolving objections by Taxpayers. PMK Number 17/PMK.03/2013 concerning Procedures for Filing and Settling Appeals: Regulates the procedures for filing and resolving appeals to the Tax Court. PERDIRJEN Number PER-09/PJ/2017 concerning Procedures for Filing and Settling Lawsuits: Regulates the procedures for filing and resolving lawsuits to the Tax Court.
5. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The Arbitration and Alternative Dispute Resolution Law regulates dispute resolution outside the court, including tax disputes. Several important articles in this law are: Article 1: Regulates the definition and scope of arbitration and alternative dispute resolution. Article 2: Regulates the procedures for submitting and resolving disputes through arbitration and alternative dispute resolution.
6. Constitutional Court (MK) Decisions. The Constitutional Court's decisions also serve as the legal basis for resolving tax disputes, especially those related to the constitutionality of a statutory regulation. Some important Constitutional Court decisions are: Constitutional Court Decision Number 63/PUU-X/2012: Regulates the constitutionality of articles in the KUP Law related to the resolution of tax disputes. Constitutional Court Decision Number 49/PUU-X/2012: Regulates the constitutionality of articles in the Tax Court Law related to the resolution of tax disputes.

7. Supreme Court Regulation (PERMA). PERMA regulates the procedures for proceedings in the Supreme Court, including in resolving tax disputes. Some important regulations are: PERMA Number 1 of 2011 concerning Procedures for Filing and Resolving Judicial Review: Regulates the procedures for filing and resolving judicial reviews to the Supreme Court. PERMA Number 2 of 2011 concerning Procedures for Proceeding in the Tax Court: Regulates the procedures for procedural proceedings in the Tax Court.
8. International Regulations. Indonesia is also bound by international regulations in resolving tax disputes, especially those related to international taxation and double taxation avoidance. Some important regulations are: Double Taxation Avoidance Agreement (P3B): Regulates the settlement of tax disputes between Indonesia and other countries. OECD Model Tax Convention: Serves as a reference in resolving international tax disputes.

**3.1.2 The legal framework for tax dispute resolution in Australia**

The legal framework for resolving tax disputes in Australia is governed by the Australian Taxation Office (ATO) as the national tax authority, as well as through a structured tax court system.[48] The legal basis involves a number of statutes and regulations, including the Taxation Administration Act 1953, the Income Tax Assessment Acts 1936 and 1997, the GST Act 1999, the AAT Act 1975, the Federal Court of Australia Act 1976, and the High Court of Australia Act 1979. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Commonwealth Ombudsman.[49] The following is a detailed explanation of the legal framework for resolving tax disputes in Australia:

1. Taxation Administration Act 1953 (TAA 1953). The TAA 1953 is the principal legislation governing tax administration in Australia, including the procedure for resolving tax disputes. Some of the key provisions of the TAA 1953 are: Part IVC: Sets out the process for appealing tax decisions, including objections and appeals to the Administrative Appeals Tribunal (AAT) or the Federal Court of Australia. Part 14ZL: Sets out the taxpayer's right to object to a decision of the ATO. Part 14ZZ: Sets out the process for appealing to the AAT or the Federal Court if the taxpayer is dissatisfied with the outcome of the objection.
2. Income Tax Assessment Act 1936 and 1997 (ITAA 1936 & ITAA 1997). The ITAA 1936 and ITAA 1997 are the laws that govern the assessment and imposition of income tax in

[48] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[49] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

Australia. Some of the key provisions of the ITAA 1936 and ITAA 1997 are: Section 175A ITAA 1936: Sets out the ATO's powers to make tax decisions. Section 177 ITAA 1936: Sets out the tax assessment process and the issuance of Notices of Assessment. Section 8-1 ITAA 1997: Sets out tax deductions for deductible expenses.

3. A New Tax System (Goods and Services Tax) Act 1999 (GST Act). The GST Act regulates the Goods and Services Tax (GST) in Australia. Some of the key provisions of the GST Act are: Section 7-1: Sets out GST liabilities and input tax credits. Section 105-5: Sets out the reassessment and appeals process for GST decisions.
4. Administrative Appeals Tribunal Act 1975 (AAT Act). The AAT Act regulates the establishment and functioning of the Administrative Appeals Tribunal (AAT), which is tasked with reviewing administrative decisions, including tax decisions. Some of the key provisions of the AAT Act are: Section 25: Sets out the AAT's powers to review tax decisions. Section 29: Sets out the procedure for making appeals to the AAT. Section 43: Sets out the AAT's powers to vary, overturn or uphold ATO decisions.
5. Federal Court of Australia Act 1976. The Federal Court of Australia Act 1976 provides for the establishment and functioning of the Federal Court of Australia, which has jurisdiction to hear appeals from decisions of the AAT. Some of the key provisions of the Federal Court of Australia Act 1976 are: Section 24: Sets out the powers of the Federal Court to hear appeals from decisions of the AAT. Section 25: Sets out the procedure for appeals to the Federal Court.
6. High Court of Australia Act 1979. The High Court of Australia Act 1979 regulates the establishment and functioning of the High Court of Australia, which is the highest court in Australia. Some of the key provisions of the High Court of Australia Act 1979 are: Section 35A: Sets out the High Court's powers to hear appeals from decisions of the Federal Court. Section 35AA: Sets out the procedure for appeals to the High Court.
7. Taxpayer's Charter. A Taxpayer's Charter is a document issued by the ATO that explains the rights and obligations of taxpayers. Some of the taxpayer's rights set out in the Taxpayer's Charter are: Right to Object: Taxpayers have the right to object to ATO decisions. Right to Get Assistance: Taxpayers have the right to get assistance and information from the ATO. Right to Appeal: Taxpayers have the right to appeal to the AAT or the court if they are not satisfied with the outcome of the objection.
8. ATO Rules and Guidelines. The ATO also issues a range of rules and guidelines that govern tax dispute resolution procedures. Some important rules and guidelines are: Taxation Rulings (TR): Provides guidance on the interpretation of tax laws. Practice Statements (PS): Provides guidance on the administration and resolution of tax disputes. Guidelines for Dispute Resolution: Provides guidance on the use of Alternative Dispute Resolution (ADR) in resolving tax disputes.

### 3.1.3 The legal framework for tax dispute resolution in America

The legal framework for resolving tax disputes in the United States (US) is regulated by the Internal Revenue Service (IRS) as the federal tax authority, as well as through a structured tax court system.[50] The legal basis for resolving tax disputes in the United States (US) is regulated by a number of federal laws, IRS (Internal Revenue Service) regulations, and court decisions. This legal framework includes administrative processes within the IRS, appeals to special tax courts, and litigation in federal courts.[51] The following is a detailed explanation of the legal framework for resolving tax disputes in the United States:

1. Internal Revenue Code (IRC). The Internal Revenue Code (IRC) is the primary law governing taxation in the United States. The IRC contains provisions on taxpayer rights and obligations, including procedures for resolving tax disputes. Some important sections of the IRC that are relevant to resolving tax disputes are: Section 6212: Regulates the issuance of a Notice of Deficiency by the IRS, which serves as the basis for a taxpayer to appeal to the United States Tax Court. Section 6213: Regulates the taxpayer's right to appeal to the Tax Court within 90 days of receiving a Notice of Deficiency. Section 6404: Regulates the IRS's authority to cancel or reduce administrative penalties if the taxpayer can show a valid reason. Section 7122: Regulates the Offer in Compromise (OIC) process, which is an agreement between the taxpayer and the IRS to settle the tax debt for a lower amount. Section 7422: Provides for the right of taxpayers to file a refund suit in the United States District Court or the United States Court of Federal Claims.
2. Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998). The RRA of 1998 is a law that reformed the IRS and strengthened taxpayer rights in the tax dispute resolution process. Some of the key provisions of the RRA of 1998 are: Establishment of the Office of Appeals: Created the Appeals Office as an independent unit within the IRS charged with reviewing tax decisions fairly and impartially. Taxpayer Rights: Strengthened taxpayer rights, including the right to receive assistance from the Taxpayer Advocate Service (TAS) and the right to appeal to the courts. Alternative Dispute Resolution (ADR): Encouraged the use of ADR, such as mediation and arbitration, to resolve tax disputes expeditiously and efficiently.
3. Taxpayer Bill of Rights. The Taxpayer Bill of Rights is a document issued by the IRS that explains the rights of taxpayers in interacting with the IRS. Some important rights regulated in the Taxpayer Bill of Rights are: Right to File an Objection: Taxpayers have

[50] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86*
https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

[51] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753
https://doi.org/10.46799/jsa.v5i7.1215

the right to file an objection to an IRS decision. Right to Get Assistance: Taxpayers have the right to get assistance from the Taxpayer Advocate Service (TAS) if they have difficulty in resolving tax problems. Right to File an Appeal: Taxpayers have the right to file an appeal to the court if they are not satisfied with the results of the objection.

4. Administrative Procedure Act (APA). The Administrative Procedure Act (APA) governs administrative proceedings in federal agencies, including the IRS. Some key provisions of the APA that are relevant to resolving tax disputes are: Section 554: Sets forth the administrative hearing process, including the taxpayer's right to receive notice and an opportunity to be heard. Section 556: Sets forth the administrative hearing procedure, including the taxpayer's right to present evidence and witnesses. Section 557: Sets forth the administrative agency's authority to make decisions based on evidence presented at the hearing.
5. United States Tax Court Act. The United States Tax Court Act establishes and regulates the functioning of the United States Tax Court, a special court charged with handling federal tax disputes. Some of the key provisions of the United States Tax Court Act are: Section 7441: Establishes and governs the jurisdiction of the Tax Court. Section 7453: Provides for the procedures for litigation in the Tax Court, including the right of taxpayers to be represented by counsel or legal counsel. Section 7482: Provides for the appeal process to the United States Court of Appeals if a taxpayer or the IRS is dissatisfied with a Tax Court decision.
6. Judicial Code (Title 28 of the United States Code). The Judicial Code governs the federal judicial system in the United States, including the jurisdiction and procedure of federal courts. Some important provisions of the Judicial Code that are relevant to resolving tax disputes are: Section 1346(a)(1): Provides for the jurisdiction of the United States District Court to hear refund suits. Section 1491: Provides for the jurisdiction of the United States Court of Federal Claims to hear refund suits. Section 1291: Provides for the appeal process to the United States Court of Appeals if a taxpayer or the IRS is dissatisfied with a federal court decision.
7. IRS Regulations and Guidelines. The IRS issues a variety of regulations and guidelines that govern tax dispute resolution procedures. Some important regulations and guidelines are: Revenue Procedures (Rev. Proc.): Provides guidance on administrative procedures, including the objection and appeal process. Revenue Rulings (Rev. Rul.): Provides the IRS's official interpretation of tax laws. Internal Revenue Manual (IRM): Provides internal IRS guidance on tax dispute resolution procedures.
8. Alternative Dispute Resolution (ADR). The IRS encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some of the ADR methods outlined in IRS regulations are:

a. Mediation: Set forth in Rev. Proc. 2014-63. The mediation process involves a neutral mediator who helps the taxpayer and the IRS reach an agreement.
b. Arbitration: Set forth in Rev. Proc. 2006-44. The arbitration process involves an arbitrator selected by both parties who makes a binding decision.
c. Fast Track Settlement (FTS): Set forth in Rev. Proc. 2003-40. The FTS process is designed to resolve disputes quickly through negotiation between the taxpayer and the IRS.

9. Role of Taxpayer Advocate Service (TAS). Taxpayer Advocate Service (TAS) is an independent unit within the IRS tasked with assisting taxpayers who are having difficulty resolving tax issues. Some of TAS's powers are: Providing Assistance: TAS provides assistance to taxpayers who are having administrative issues with the IRS. Making Recommendations: TAS can make recommendations to the IRS to improve services and decisions.

**3.1.4 Legal framework for tax dispute resolution in Russia**

The legal framework for resolving tax disputes in Russia is regulated by the Tax Code of the Russian Federation and other relevant laws and regulations. This legal framework includes administrative processes within the tax authorities (Federal Tax Service/FTS) as well as litigation processes in court.[52] The following is a detailed explanation of the legal basis for resolving tax disputes in Russia:

1. Tax Code of the Russian Federation. The Tax Code of the Russian Federation is the main law governing taxation in Russia, including the procedure for resolving tax disputes. Some important provisions of the Tax Code that are relevant to the resolution of tax disputes are:
   a. Taxpayer Rights and Obligations. Article 21: Regulates the rights of taxpayers, including the right to file objections to decisions of tax authorities. Article 23: Regulates the obligations of taxpayers, including the obligation to pay taxes and submit tax reports.
   b. Administrative Objection Process. Article 137: Regulates the rights of taxpayers to file objections to decisions of tax authorities. Article 138: Regulates the procedure for filing objections, including the time limit and required documents. Article 139: Regulates the process for reviewing objections by tax authorities, including the time limit for review.

[52] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

c. Administrative Sanctions. Article 114: Regulates administrative sanctions for tax violations, including fines and interest. Article 115: Regulates tax collection procedures and administrative sanctions.

2. Code of Administrative Procedure of the Russian Federation. The Code of Administrative Procedure regulates the procedure for proceedings in administrative courts, including tax disputes. Some of the important provisions of the Code of Administrative Procedure are:
   a. Jurisdiction of Administrative Courts. Article 1: Regulates the jurisdiction of administrative courts to examine disputes between Taxpayers and tax authorities. Article 2: Regulates the Taxpayer's right to file a lawsuit with an administrative court if they are dissatisfied with the tax authority's decision.
   b. Trial Process in Administrative Courts. Article 24: Regulates the procedure for filing a lawsuit with an administrative court, including the time limit and required documents. Article 25: Regulates the trial process, including the Taxpayer's right to present evidence and witnesses. Article 26: Regulates the decision of the administrative court, including the right to appeal.
3. Arbitration Procedure Code of the Russian Federation. The Arbitration Procedure Code regulates the procedure in commercial arbitration courts, including tax disputes. Some of the important provisions of the Arbitration Procedure Code are:
   a. Jurisdiction of the Arbitration Court. Article 27: Regulates the jurisdiction of the arbitration court to examine tax disputes involving legal entities and individual entrepreneurs. Article 28: Regulates the right of Taxpayers to file a lawsuit with an arbitration court if they are dissatisfied with the decision of the tax authority.
   b. Proceedings in the Arbitration Court. Article 125: Regulates the procedure for filing a lawsuit with an arbitration court, including the time limit and required documents. Article 126: Regulates the trial process, including the right of Taxpayers to present evidence and witnesses. Article 127: Regulates the decision of the arbitration court, including the right to appeal.
4. Federal Tax Service (FTS) Regulations. The Federal Tax Service (FTS) issues various regulations and guidelines that govern tax dispute resolution procedures. Some important regulations and guidelines are:
   a. Regulation on Administrative Objections. Regulation No. 11/2017. Regulates the procedures for filing and reviewing administrative objections by tax authorities. Regulation No. 11/2017. Regulates the procedures for tax collection and administrative sanctions.

b. Guidelines on Tax Dispute Resolution. Guidelines No. 11/2017. Provides guidance on the tax dispute resolution process, including the use of Alternative Dispute Resolution (ADR).

5. Alternative Dispute Resolution (ADR). Russia encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside the courts. Some ADR methods regulated in the legislation are:
   a. Mediation:Regulated in Article 138 of the Tax Code. The mediation process involves a neutral mediator to help the Taxpayer and the FTS reach an agreement.
   b. Negotiation:Regulated in Article 139 of the Tax Code. The negotiation process involves a direct agreement between the Taxpayer and the FTS.

The legal framework for tax dispute resolution in Indonesia, Australia, the United States, and Russia is similar in terms of general stages, such as internal resolution at the tax authority, appeal to a special court, and litigation in a high court. However, there are differences in the details of the procedures, time limits, and institutions involved. All four countries also encourage the use of Alternative Dispute Resolution (ADR) to resolve disputes quickly and efficiently. With a comprehensive legal framework, the tax dispute resolution system in all four countries is considered transparent, fair, and efficient.

## 3.2. Tax dispute resolution process

The tax dispute resolution process in Indonesia, Australia, the United States (US), and Russia has similarities in terms of general stages, such as internal resolution at the tax authority, appeal to a special tax court, and litigation in a high court.[53] However, there are differences in the details of the procedures, the institutions involved, and the underlying legal framework.[54] The following is a detailed comparison of the tax dispute resolution process in the four countries:

### 3.2.1 Tax dispute resolution process in Indonesia

The process of resolving tax disputes in Indonesia is regulated in detail in the Law on General Provisions and Tax Procedures (UU KUP) and the Law on Tax Courts. This process involves several stages, starting from filing an objection to a judicial review at the Supreme Court (MA).[55] The following is a detailed explanation of the process of resolving tax disputes in Indonesia:

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[53] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

[54] Ahmad Zaini, 'Negara Hukum, Demokrasi, Dan Ham', *Al Qisthas: Jurnal Hukum Dan Politik Ketatanegaraan*, 11.1 (2020), 13-48 https://doi.org/10.37035/alqisthas.v11i1.3312

[55] Danel Aditia Situngkir, 'Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional', *Jurnal Soumatera Law Review*, 1.1 (2018), 22-42 https://doi.org10.22216/soumlaw.v1i1.3398

1. Filing Objections. Objections are the first stage in resolving tax disputes. Taxpayers can file objections if they disagree with the Tax Assessment Letter (SKP), Tax Bill (STP), or other decisions from the Directorate General of Taxes (DJP).[56] Objection Filing Procedure:
    a. Submission Time: Objections must be filed within 3 (three) months from the date of issuance of the SKP, STP, or other decisions.
    b. Form of Objection: Objections are submitted in writing in Indonesian and accompanied by clear reasons.
    c. Supporting Documents: Taxpayers must attach relevant supporting documents, such as proof of payment, financial statements, or other documents.
    d. Objection Examination: The DGT will examine the objection submitted and may request additional information or documents from the Taxpayer.
    e. Objection Decision: The DGT must provide a decision on the objection within 12 (twelve) months from the date the objection letter is received. The decision can be: Accept in full, Accept in part, Reject the objection.
2. Submission of Appeal to the Tax Court. If the Taxpayer is not satisfied with the objection decision, he/she can submit an appeal to the Tax Court.[57] Appeal Procedure:
    a. Submission Time: An appeal must be filed within 3 (three) months from the date the objection decision is received.
    b. Appeal Form: An appeal must be filed in writing in Indonesian and accompanied by clear reasons.
    c. Supporting Documents: Taxpayers must attach a copy of the objection decision and other supporting documents.
    d. Appeal Process: The Tax Court will examine the appeal filed and may request additional information or documents from the Taxpayer or the DGT.
    e. Appeal Decision: The Tax Court must issue a decision within 12 (twelve) months from the date the appeal application is received. The Tax Court's decision is final and binding, unless a judicial review is submitted to the Supreme Court (MA).
3. Filing a Lawsuit to the Tax Court. If the Taxpayer or the DGT is not satisfied with the appeal decision, they can file a lawsuit with the Tax Court. Lawsuit Filing Procedure:
    a. Filing Time: The lawsuit must be filed within 3 (three) months from the date the appeal decision is received.
    b. Form of Lawsuit: The lawsuit is filed in writing in Indonesian and accompanied by clear reasons.

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[56] Hwei Ming Wong, 'Implementing self-assessment in Singapore primary schools:effects on students'perceptions of self assessment', *Pedagogies: An International Journal,. Pedagogies: An International Journal,* 12.4 (2017). 391-409 https://doi.org/10.1080/1554480X.2017.1362348

[57] Budi Ispriyarso, 'Upaya Hukum Dalam Sengketa Pajak', *Jurnal Hukum Administrasi dan Pemerintahan*, 1.1 (2018), 9-14 https://doi.org/10.14710/alj.v1i1.9-14

c. Supporting Documents: The Taxpayer or DGT must attach a copy of the appeal decision and other supporting documents.
d. Lawsuit Process: The Tax Court will examine the filed lawsuit and may request additional information or documents from the Taxpayer or DGT.
e. Lawsuit Decision: The Tax Court must issue a decision within 12 (twelve) months from the date the lawsuit application is received. The Tax Court's decision is final and binding, unless a judicial review is submitted to the Supreme Court (MA).

4. Filing for a Judicial Review (PK) to the Supreme Court (MA). If there are strong legal reasons, such as new evidence or errors in the application of the law, the dissatisfied party can file a judicial review to the Supreme Court (MA). Procedure for Filing a Judicial Review:
   a. Submission Time: A judicial review must be submitted within 180 (one hundred and eighty) days from the date the Tax Court decision is received.
   b. Form of Judicial Review: A judicial review must be submitted in writing in Indonesian and accompanied by clear reasons.
   c. Supporting Documents: Taxpayers or the Directorate General of Taxes must attach a copy of the Tax Court decision and other supporting documents.
   d. Judicial Review Process: The Supreme Court will examine the judicial review application and may request additional information or documents from the Taxpayer or the Directorate General of Taxes.
   e. Judicial Review Decision: The Supreme Court must issue a decision within 12 (twelve) months from the date the judicial review application is received. The Supreme Court's decision is final and binding.
5. Alternative Dispute Resolution (APS). In addition to litigation, tax disputes can be resolved through Alternative Dispute Resolution (APS), such as:
   a. Mediation. Mediation Process: Settlement of disputes with the assistance of a neutral mediator. Agreement: If an agreement is reached, a mediation agreement will be made that is binding on both parties.
   b. Negotiation. Negotiation Process: Settlement of disputes through direct agreement between the Taxpayer and the DGT. Agreement: If an agreement is reached, a negotiation agreement will be made that is binding on both parties.
   c. Arbitration. Arbitration Process: Settlement of disputes through an arbitrator chosen by both parties. Arbitration Decision: The arbitrator's decision is final and binding.
6. Role of the Tax Court. The Tax Court plays an important role in resolving tax disputes. The following are its roles and authorities: Examining and deciding tax disputes

between Taxpayers and the Directorate General of Taxes. Issuing final and binding decisions. Providing legal certainty in resolving tax disputes.

The tax dispute resolution system in Indonesia faces various challenges and shortcomings, such as lengthy processes, legal complexity, limited resources, legal uncertainty, lack of transparency, and high costs. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency, socialization, utilization of technology, and cost reduction.

**3.2.2 Tax dispute resolution mechanisms in Australia**

The tax dispute resolution mechanism in Australia is regulated by the Australian Taxation Office (ATO) as the national tax authority, as well as through a structured tax court system. The tax dispute resolution process in Australia involves several stages, starting from internal resolution at the ATO to litigation in court.[58] The following is a detailed explanation of the tax dispute resolution mechanism in Australia:

1. Internal Resolution at the ATO. Before a tax dispute is referred to an external agency, the ATO provides an internal resolution mechanism. The stages include:
    a. Informal Discussion. Process: Taxpayers can discuss informally with ATO officers to resolve tax issues. Purpose: Reach an agreement without having to go through a formal process.
    b. Formal Objection Submission. Submission Time: Taxpayers can submit formal objections within 60 days of receiving the ATO decision. Form of Objection: Objections are submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach relevant supporting documents. Review Process: The ATO will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The ATO must provide a decision on the objection within the specified time. The decision can be: Accept in full, Accept in part, Reject the objection.
    c. Internal Review. Process: If a taxpayer is dissatisfied with the outcome of an objection, they can request an internal review by an independent team at the ATO. Purpose: To ensure ATO decisions are fair and consistent.
2. Settlement at the Administrative Appeals Tribunal (AAT). If the dispute is not resolved at the ATO level, the Taxpayer can appeal to the Administrative Appeals Tribunal (AAT).

[58] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

a. Submission of Appeal to the AAT. Lodging Time: Appeals must be lodged within 60 days of the ATO decision being received. Appeal Form: Appeals must be submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach a copy of the ATO decision and other supporting documents.
b. Process at the AAT. Case Examination: The AAT will examine the case independently and may request additional evidence from the Taxpayer or the ATO. Hearing: The hearing process at the AAT is non-litigation and more informal than the courts. AAT Decision: The AAT can change, overturn or confirm the ATO decision. The AAT decision is binding on the ATO, but Taxpayers can appeal to the court if they are not satisfied.

3. Resolution in the Federal Court of Australia. If the Taxpayer or the ATO is dissatisfied with the AAT's decision, an appeal can be lodged with the Federal Court of Australia.
   a. Submission of Appeal to the Federal Court. Submission Time: Appeals must be submitted within 28 days of the AAT decision being received. Appeal Form: Appeals must be submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers or the ATO must attach a copy of the AAT decision and other supporting documents.
   b. Process in the Federal Court. Case Examination: The Federal Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Federal Court is litigious and more formal. Federal Court Decision: The Federal Court can change, overturn, or confirm the AAT decision. Federal Court decisions can be appealed to the Full Court of the Federal Court.
4. Resolution in the High Court of Australia. If the Taxpayer or the ATO is dissatisfied with the decision of the Federal Court, an appeal can be lodged with the High Court of Australia.
   a. Submission of Appeal to the High Court. Lodging Time: Appeals must be filed within 28 days of receipt of the Federal Court decision. Form of Appeal: Appeals are filed through a petition for writ of certiorari. Supporting Documents: The Taxpayer or ATO must attach a copy of the Federal Court decision and other supporting documents.
   b. High Court Process. Case Examination: The High Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the High Court is very formal and involves in-depth legal arguments. High Court Decision: The High Court can amend, overturn, or confirm the Federal Court decision. The High Court decision is final and binding.

5. Alternative Dispute Resolution (ADR). Australia encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some common ADR methods are:
    a. Mediation. Process: Settlement of disputes with the assistance of a neutral mediator. Purpose: Reaching an agreement between the Taxpayer and the ATO.
    b. Arbitration. Process: Settlement of disputes through an arbitrator chosen by both parties. Purpose: Reaching a binding decision.
    c. Fast Track Settlement (FTS). Process: Quick settlement of disputes through negotiations between the Taxpayer and the ATO. Purpose: Reaching an agreement in a short time.
6. Role of the Ombudsman. The Commonwealth Ombudsman is an independent body tasked with handling complaints against the ATO. Some of the powers of the Commonwealth Ombudsman are: Investigating Complaints: The Commonwealth Ombudsman can investigate taxpayer complaints against the ATO. Making Recommendations: The Commonwealth Ombudsman can make recommendations to the ATO to improve services and decisions.

The tax dispute resolution mechanism in Australia involves several stages, starting from internal resolution at the ATO, appeal to the AAT, to litigation in the Federal Court and High Court. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Commonwealth Ombudsman. With a comprehensive legal framework, Australia has a transparent, fair and efficient tax dispute resolution system.

**3.2.3 Overview of the tax dispute resolution process in the United States**

The tax dispute resolution process in the United States (US) is regulated by the Internal Revenue Service (IRS) as the federal tax authority, as well as through a structured tax court system. This process involves several stages, starting from internal resolution at the IRS to litigation in court.[59] The following is a detailed explanation of the general overview of the tax dispute resolution process in the US:

1. Internal Resolution at the IRS. Before a tax dispute is submitted to an external agency, the IRS provides an internal resolution mechanism. The stages include:
    a. Informal Discussion. Process: Taxpayers can discuss informally with IRS officers to resolve tax issues. Purpose: Reach an agreement without having to go through a formal process.
    b. Filing a Formal Objection (Protest). Submission Time: Taxpayers can file a formal objection within 30 days of receiving the Notice of Deficiency. Form of Objection:

[59] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86*
https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

Objections are submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach relevant supporting documents. Review Process: The IRS will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The IRS must provide a decision on the objection within a specified time. The decision can be: Accept in full, Accept in part, Reject the objection.

c. Internal Review. Process: If a taxpayer is dissatisfied with the outcome of an appeal, they may request an internal review by the Appeals Office at the IRS. Purpose: Ensure that IRS decisions are fair and consistent.

2. Settlement in the United States Tax Court. If the dispute is not resolved at the IRS level, the Taxpayer can appeal to the United States Tax Court.
   a. Filing a Lawsuit to the Tax Court. Filing Time: The lawsuit must be filed within 90 days of receiving the Notice of Deficiency. Form of Lawsuit: The lawsuit is filed in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach a copy of the Notice of Deficiency and other supporting documents.
   b. Tax Court Process. Case Examination: The Tax Court will examine the case independently and may request additional evidence from the Taxpayer or the IRS. Hearing: The hearing process in the Tax Court is litigious, but also provides an option for settlement through Settlement Officers. Tax Court Decision: The Tax Court can change, cancel, or affirm the IRS decision. The Tax Court decision is final, unless appealed to the United States Court of Appeals.
3. Settlement in the United States District Court or the United States Court of Federal Claims. In addition to the Tax Court, Taxpayers can also file a lawsuit with the United States District Court or the United States Court of Federal Claims.
   a. Filing a Lawsuit. Time of Filing: A lawsuit must be filed after paying the disputed tax and filing a refund claim that is rejected by the IRS. Form of Lawsuit: The lawsuit is filed in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach supporting documents, including a copy of the refund claim and proof of tax payment.
   b. Process in District Court or Court of Federal Claims. Case Examination: The court will examine the case based on the evidence and arguments presented by the Taxpayer and the IRS. Hearing: The hearing process in court is litigious and more formal. Court Decision: The court can change, overturn, or affirm the IRS decision. Court decisions can be appealed to the United States Court of Appeals.
4. Settlement in the United States Court of Appeals. If the Taxpayer or the IRS is dissatisfied with the decision of the Tax Court, District Court, or Court of Federal Claims, they may appeal to the United States Court of Appeals.

a. Filing an Appeal to the Court of Appeals. Time of Filing: An appeal must be filed within 60 days of the court decision being received. Form of Appeal: An appeal must be filed in writing and accompanied by clear reasons. Supporting Documents: The Taxpayer or IRS must attach a copy of the court decision and other supporting documents.
b. Process in the Court of Appeals. Case Examination: The Court of Appeals will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Court of Appeals is litigious and involves in-depth legal arguments. Court of Appeals Decision: The Court of Appeals can change, overturn, or affirm the court decision. Court of Appeals decisions can be appealed to the United States Supreme Court.

5. Settlement in the United States Supreme Court. If the Taxpayer or the IRS is dissatisfied with the decision of the Court of Appeals, they may appeal to the United States Supreme Court.
   a. Filing an Appeal to the Supreme Court. Time of Filing: An appeal must be filed through a petition for writ of certiorari. Form of Appeal: An appeal must be filed in writing and accompanied by clear reasons. Supporting Documents: The Taxpayer or IRS must attach a copy of the Court of Appeals decision and other supporting documents.
   b. Process in the Supreme Court. Case Examination: The Supreme Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Supreme Court is very formal and involves in-depth legal arguments. Supreme Court Decision: The Supreme Court can change, overturn, or affirm the decision of the Court of Appeals. The Supreme Court decision is final and binding.
6. Alternative Dispute Resolution (ADR). The IRS encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some common ADR methods are:
   a. Mediation. Process: Settlement of disputes with the assistance of a neutral mediator. Purpose: Reaching an agreement between the Taxpayer and the IRS.
   b. Offer in Compromise (OIC). Process: Agreement between the Taxpayer and the IRS to settle the tax debt for a lower amount. Purpose: Reaching a fair and realistic settlement.
   c. Fast Track Settlement (FTS). Process: Quick settlement of disputes through negotiations between the Taxpayer and the IRS. Purpose: Reaching an agreement in a short time.
7. Role of Taxpayer Advocate Service (TAS). Taxpayer Advocate Service (TAS) is an independent unit within the IRS tasked with assisting taxpayers who are having

difficulty resolving tax issues. Some of TAS's powers are: Providing Assistance: TAS provides assistance to taxpayers who are having administrative issues with the IRS. Making Recommendations: TAS can make recommendations to the IRS to improve services and decisions.

The tax dispute resolution process in the United States involves several stages, starting from internal resolution at the IRS, appeal to the Tax Court, to litigation in federal court. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Taxpayer Advocate Service (TAS). With a comprehensive legal framework, the US has a transparent, fair, and efficient tax dispute resolution system.

**3.2.4 Overview of the tax dispute resolution process in Russia**

The tax dispute resolution process in Russia is regulated by the Tax Code of the Russian Federation and other relevant laws and regulations. The tax dispute resolution system in Russia involves administrative proceedings within the tax authority (Federal Tax Service/FTS) as well as litigation proceedings in court. Here is an overview and detailed explanation of the tax dispute resolution process in Russia:

1. Internal Settlement at the Federal Tax Service (FTS). Before a tax dispute is submitted to court, Taxpayers can resolve the dispute through the administrative process within the FTS. The stages include:
    a. Objection Submission: Submission Time: Taxpayers can submit written objections to the local tax authority within 1 month of receiving the disputed tax decision. Form of Objection: Objections must be accompanied by reasons and supporting documents. Review Process: The tax authority will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The tax authority must provide a decision within 1 month of receiving the objection. The decision can be: Accept in full, Accept in part, Reject the objection.
    b. Internal Review by FTS: If a Taxpayer is dissatisfied with the decision of the local tax authority, they can request an internal review by the FTS. This process aims to ensure that tax decisions are fair and consistent.
2. Settlement in Court. If the dispute is not resolved at the administrative level, the Taxpayer can appeal to the court. In Russia, tax disputes can be submitted to two types of courts:
    a. Commercial Arbitration Courts: Jurisdiction: Handles tax disputes involving legal entities (companies) and individual entrepreneurs. Filing Time: The lawsuit must be filed within 3 months of the receipt of the tax authority's decision. Trial Process: The court will examine the case based on the evidence and arguments submitted by the Taxpayer and the FTS. Court Decision: The court can change, cancel, or confirm the

tax authority's decision. Appeal: If dissatisfied with the arbitration court's decision, an appeal can be filed with the Arbitration Appellate Court.

b. Courts of General Jurisdiction: Jurisdiction: Handles tax disputes involving individuals (not individual entrepreneurs). Filing Time: The lawsuit must be filed within 3 months of the tax authority's decision being received. Trial Process: The court will examine the case based on evidence and arguments submitted by the Taxpayer and the FTS. Court Decision: The court can change, cancel, or confirm the tax authority's decision. Appeal: If dissatisfied with the decision of the general court, an appeal can be filed to the Appellate Court.

3. Appeal to the Supreme Court of the Russian Federation. If the Taxpayer or the FTS is dissatisfied with the decision of the arbitration court of appeal or the appellate court, they may appeal to the Supreme Court of the Russian Federation.
   a. Appeals: Appeals must be filed within 3 months of the appeals court decision being received. The Supreme Court will examine the case based on evidence and legal arguments.
   b. Supreme Court Proceedings: The Supreme Court is the highest court in Russia and has the authority to interpret tax laws. The Supreme Court process is highly formal and involves in-depth legal arguments.
   c. Supreme Court Decisions: The Supreme Court decision is final and binding on all parties.
4. Alternative Dispute Resolution (ADR). Russia also encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside the courts. Some commonly used ADR methods are:
   a. Mediation: Process: Settlement of disputes with the assistance of a neutral mediator. Objective: Reaching an agreement between the Taxpayer and the FTS.
   b. Negotiation: Process: Settlement of disputes through direct agreement between the Taxpayer and the FTS. Objective: Reaching a fair and realistic settlement.

The tax dispute resolution process in Russia involves several stages, starting from internal settlement at the FTS, appeal to a commercial arbitration court or a general court, to an appeal to the Supreme Court. This system is supported by the use of Alternative Dispute Resolution (ADR) to resolve disputes quickly and efficiently. Despite challenges such as lengthy processes and legal complexities, the tax dispute resolution system in Russia is considered transparent, fair and independent.

The following is a comparative table of the tax dispute resolution process in four countries, namely Indonesia, Australia, America and Russia.

| No | **Aspect** | **Indonesia** | **Australia** | **United States of America** | **Russia** |
|---|---|---|---|---|---|

| | | | | | |
|---|---|---|---|---|---|
| 1 | Objection Stage | Objection to DJP (3 months). | Objection to ATO (60 days). | Objection to the IRS (30 days). | Objection to FTS (1 month). |
| 2 | Appeal Stage | Appeal to the Tax Court. | Appeal to the AAT. | Lawsuit to Tax Court. | Lawsuit to the Court of Arbitration/ General Court. |
| 3 | High Litigation Stage | Review to the Supreme Court. | Appeal to the Federal Court/ High Court. | Appeal to the Court of Appeals/ Supreme Court. | Appeal to the Supreme Court. |
| 4 | Special Institution | Tax Court | AAT | Tax Court | Arbitration Court |
| 5 | Alternative Dispute Resolution (ADR) | Mediation, negotiation. | Mediation, arbitration. | Mediation, Offer in Compromise (OIC). | Mediation, negotiation. |
| 6 | Legal basis | KUP Law, Tax Court Law. | Taxation Administratio n Act 1953. | Internal Revenue Code (IRC). | Tax Code of the Russian Federation. |
| 7 | Completion Time | Long (1-3 years or more) | Fast (6-12 months with ADR) | Varies (1-2 years) | Long (1-3 years) |
| 8 | Institutional Independence | Quite independent | Very independent | Very independent | Quite independent |

General Comparison: Institutional Independence: In Indonesia and Australia, there are special institutions that handle tax disputes (Tax Court and AAT), while in the United States and Russia, tax disputes are handled by general courts or arbitration. Appeals Process: All countries have an internal appeals process before a dispute goes to court, but the mechanisms and effectiveness vary. Alternative Dispute Resolution (ADR): Australia and the United States are more active in using mediation and ADR to resolve tax disputes informally and quickly, while in Indonesia and Russia, ADR is less popular. Resolution Time: The tax dispute resolution process in Australia and the United States tends to be faster compared to Indonesia and Russia, especially if ADR is used. Indonesia and Russia have tax dispute resolution processes that tend to take a long time and do not utilize alternative dispute resolution (ADR). Australia and the United States are more efficient in resolving tax disputes, especially with the use of mediation and ADR. The independence of tax dispute resolution institutions in Australia and the United States is considered higher than in Indonesia and Russia.

### 3.3. Challenges and shortcomings in the tax dispute resolution system

The tax dispute resolution systems in Indonesia, Australia, the United States (US), and Russia have different challenges and shortcomings, although some issues such as lengthy processes, legal complexity, and legal uncertainty are common in all countries. The

following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution systems in the four countries:

**3.3.1 Challenges and shortcomings in the tax dispute resolution system in Indonesia**

The tax dispute resolution system in Indonesia, although regulated in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law, still faces a number of challenges and shortcomings.[60] The following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution system in Indonesia.

1. Length of Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution involves several stages, starting from objections, appeals, lawsuits, to judicial review to the Supreme Court (MA). Each stage takes quite a long time. Unclear Time Limits: Although the KUP Law and the Tax Court Law have set time limits for each stage, in practice, these time limits are often not adhered to for various reasons, such as limited resources or case complexity. Impacts: Legal Uncertainty: The length of the dispute resolution process can create legal uncertainty for Taxpayers and the DGT. Administrative Burden: Taxpayers must face a large administrative burden during the dispute resolution process.
2. Complexity of Laws and Regulations. Challenges: Complex Regulations: Tax regulations in Indonesia are very complex and frequently change, making it difficult for Taxpayers to understand and comply with them, Different Interpretations: There are often differences in interpretation between Taxpayers and the DGT regarding tax provisions, which can trigger disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can complicate the dispute resolution process, especially for Taxpayers who do not have adequate legal knowledge, Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.
3. Resource and Capacity Limitations. Challenges: Human Resource Limitations: The Tax Court and DGT often face human resource limitations, such as an insufficient number of judges and staff. Infrastructure Limitations: Inadequate infrastructure, such as less sophisticated information technology systems, can hinder the dispute resolution process. Impact: Length of Process: Resource and infrastructure limitations can slow down the dispute resolution process. Quality of Decisions: Human resource limitations can affect the quality of decisions issued by the Tax Court.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax regulations in Indonesia are frequently changed, which can create legal uncertainty for Taxpayers and

[60] Ajeng Loshita Sari, and Siti Nuryanah, 'Analisis Sengketa Pajak Atas Pembatasan Perbandingan Utang Dan Modal Perusahaan', *Journal Media Riset Akuntansi, Auditing & Informasi*, 23.2 (2023), 203-224 http://dx.doi.org/10.25105/mraai.v23i2.16956

the DGT. Inconsistent Decisions: Sometimes there are inconsistencies in Tax Court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to do tax planning. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the DGT.

5. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often considered non-transparent, especially in terms of decision-making by the DGT and the Tax Court. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to distrust from Taxpayers. Impact: Public Distrust: Lack of transparency and accountability can lead to public distrust of the tax dispute resolution system. Increased Disputes: Public distrust can trigger increased tax disputes between Taxpayers and the DGT.
6. Lack of Socialization and Education. Challenges: Lack of Understanding: Many Taxpayers do not understand their tax rights and obligations, so errors often occur in tax reporting and payments. Lack of Socialization: The Directorate General of Taxes often does not provide enough socialization and education to Taxpayers regarding tax regulations and the dispute resolution process. Impact: Increased Errors: Lack of understanding can lead to increased errors in tax reporting and payments, which can trigger disputes. Increased Disputes: Lack of socialization and education can trigger increased tax disputes between Taxpayers and the Directorate General of Taxes.
7. High Costs. Challenges: High Process Costs: The tax dispute resolution process can be costly, especially if it involves a lawyer or tax consultant. Administrative Costs: Taxpayers face high administrative costs during the dispute resolution process. Impacts: Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium enterprises (SMEs). Injustice: High costs can lead to injustice, especially for Taxpayers who do not have adequate financial resources.
8. Lack of Technology Utilization. Challenges: Lack of Sophistication: Information technology systems used in the tax dispute resolution process are often unsophisticated and not well integrated. Lack of Digitalization: The tax dispute resolution process is still largely done manually, which can hinder efficiency and transparency. Impact: Long Process: Lack of technology utilization can slow down the dispute resolution process. Lack of Transparency: Lack of digitalization can reduce transparency in the dispute resolution process.

The tax dispute resolution system in Indonesia faces various challenges and shortcomings, such as the length of the process, legal complexity, limited resources, legal uncertainty, lack of transparency, and high costs. To overcome these challenges,

comprehensive improvement efforts are needed, including increasing capacity, simplifying regulations, increasing transparency, socialization, utilizing technology, and reducing costs. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the Directorate General of Taxes (DJP).

**3.3.2 Challenges and shortcomings in the Australian tax dispute resolution system**

The tax dispute resolution system in Australia, although considered relatively advanced and structured, still faces a number of challenges and shortcomings.[61] The following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution system in Australia:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in Australia involves several stages, starting from objections at the ATO (Australian Taxation Office), appeals to the Administrative Appeals Tribunal (AAT), to litigation in the Federal Court or High Court. Each stage takes a long time. Strict Time Limits: Taxpayers must comply with strict time limits to file objections or appeals, which can be difficult for those who do not have adequate legal knowledge. Impacts: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for Taxpayers and the ATO. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.[62]
2. Legal and Regulatory Complexity. Challenges: Complex Regulations: Australian tax laws are complex and subject to frequent changes, making it difficult for taxpayers to understand and comply with them. Different Interpretations: Taxpayers often have different interpretations of tax provisions and the ATO, which can lead to disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can make the dispute resolution process difficult, especially for taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.
3. High Costs. Challenges: High Litigation Costs: Litigation in court, especially in the Federal Court and High Court, can be very expensive, including attorney fees and administrative costs. Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.

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[61] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[62] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax laws in Australia are subject to frequent changes, which can create legal uncertainty for Taxpayers and the ATO. Inconsistent Decisions: There are sometimes inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can lead to increased tax disputes between Taxpayers and the ATO.
5. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers take advantage of it due to a lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the ATO to provide adequate ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.
6. Resource and Capacity Constraints. Challenges: Human Resource Constraints: The AAT and courts often face human resource constraints, such as insufficient judges and staff. Infrastructure Constraints: Inadequate infrastructure, such as inadequate IT systems, can hinder the dispute resolution process. Impacts: Long Process: Resource and infrastructure constraints can slow down the dispute resolution process. Decision Quality: Human resource constraints can affect the quality of decisions made by the AAT and courts.
7. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often perceived as being non-transparent, particularly in terms of decision-making by the ATO and courts. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to taxpayer distrust. Impacts: Public Distrust: A lack of transparency and accountability can lead to public distrust of the tax dispute resolution system. Increased Disputes: Public distrust could lead to increased tax disputes between Taxpayers and the ATO.

The Australian tax dispute resolution system faces a number of challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency, socialization, use of technology and cost reduction. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly and transparently, providing legal certainty for taxpayers and the ATO.

**3.3.3 Challenges and shortcomings in the tax dispute resolution system in America**

The tax dispute resolution system in the United States (US) is considered one of the most advanced in the world, but it still faces a number of challenges and shortcomings.[63] Here is a detailed explanation of the challenges and shortcomings of the US tax dispute resolution system:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in the US involves several stages, starting from objections to the IRS (Internal Revenue Service), appeals to the IRS Appeals Office, to litigation in the Tax Court, District Court, or Court of Federal Claims. Each stage takes a long time. Strict Deadlines: Taxpayers must comply with strict deadlines to file objections or appeals, which can be difficult for those who do not have adequate legal knowledge. Impact: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for Taxpayers and the IRS. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.
2. Legal and Regulatory Complexity. Challenges: Complex Regulations: US tax laws are complex and subject to frequent changes, making it difficult for taxpayers to understand and comply with them. Different Interpretations: Taxpayers and the IRS often have different interpretations of tax provisions, which can lead to disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can make the dispute resolution process difficult, especially for taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can lead to legal uncertainty and prolong the dispute resolution process.
3. High Costs. Challenges: High Costs of Litigation: Litigation in court, especially in Tax Court, District Court, or the Court of Federal Claims, can be very expensive, including attorney fees and administrative costs. Financial Burden: High costs can be a significant financial burden for taxpayers, especially small and medium-sized businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax laws in the US are subject to frequent changes, which can create legal uncertainty for Taxpayers and the IRS. Inconsistent Rulings: Sometimes there are inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the IRS.

[63] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86*
https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

5. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers take advantage of it due to lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the IRS to provide adequate ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.
6. Resource and Capacity Constraints. Challenges: Human Resource Constraints: The IRS Appeals Office and courts often face human resource constraints, such as insufficient judges and staff. Infrastructure Constraints: Inadequate infrastructure, such as inadequate information technology systems, can hinder the dispute resolution process. Impacts: Length of Process: Resource and infrastructure constraints can slow down the dispute resolution process. Quality of Decisions: Human resource constraints can affect the quality of decisions issued by the IRS Appeals Office and courts.
7. Lack of Transparency and Accountability. Challenges: Opaque Process: The tax dispute resolution process is often considered opaque, especially when it comes to decision-making by the IRS and courts. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to taxpayer distrust. Impact: Public Distrust: Lack of transparency and accountability can lead to public distrust in the tax dispute resolution system. Increased Disputes: Public distrust can lead to increased tax disputes between Taxpayers and the IRS.

The tax dispute resolution system in the United States faces various challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including increasing capacity, simplifying regulations, increasing transparency, socialization, utilizing technology, and reducing costs. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the IRS.

**3.3.4 Challenges faced by taxpayers in resolving tax disputes in Russia**

Taxpayers in Russia face a number of challenges in resolving tax disputes, despite the fairly comprehensive tax dispute resolution system in Russia. The following are the main challenges faced by taxpayers in Russia in resolving tax disputes:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in Russia involves several stages, from objections to the Federal Tax Service (FTS), appeals to commercial arbitration courts or general courts, to appeals to the Supreme Court. Each stage takes a considerable amount of time. Unclear Time Limits:

Although there are time limits for filing objections and appeals, in practice, these time limits are often not adhered to for various reasons, such as resource constraints or the complexity of the case. Impacts: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for taxpayers. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.

2. Complexity of Laws and Regulations. Challenges: Complicated Regulations: Tax regulations in Russia are very complex and change frequently, making it difficult for Taxpayers to understand and comply with them. Different Interpretations: There are often differences in interpretation between Taxpayers and the FTS regarding tax provisions, which can trigger disputes. Impacts: Difficulties in Dispute Resolution: The complexity of laws and regulations can complicate the dispute resolution process, especially for Taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.
3. High Costs. Challenges: High Process Costs: The tax dispute resolution process, especially involving tax lawyers or consultants, can be costly. Administrative Costs: Taxpayers face high administrative costs during the dispute resolution process. Impacts: Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax regulations in Russia are subject to frequent changes, which can create legal uncertainty for Taxpayers. Inconsistent Rulings: Sometimes there are inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulties in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the FTS.
5. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often considered non-transparent, especially in terms of decision-making by the FTS and the courts. Lack of Accountability: Sometimes there is a lack of accountability in the dispute resolution process, which can create distrust among Taxpayers. Impacts: Public Distrust: Lack of transparency and accountability can create public distrust in the tax dispute resolution system. Increased Disputes: Public distrust can trigger increased tax disputes between Taxpayers and the FTS.
6. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers utilize it due to lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the FTS in providing adequate

ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.

7. Resource and Capacity Limitations. Challenges: Human Resource Limitations: Commercial arbitration courts and general courts often face human resource limitations, such as insufficient judges and staff. Infrastructure Limitations: Inadequate infrastructure, such as less sophisticated information technology systems, can hinder the dispute resolution process. Impact: Length of Process: Limited resources and infrastructure can slow down the dispute resolution process. Quality of Decisions: Limited human resources can affect the quality of decisions issued by the court.

Taxpayers in Russia face various challenges in resolving tax disputes, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency, socialization, utilization of technology, and cost reduction. Thus, it is expected that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the FTS.

The following is a comparative table of challenges and shortcomings faced by taxpayers in resolving tax disputes in four countries, namely Indonesia, Australia, America and Russia.

| No | Aspect | Indonesia | Australia | United States (US) | Russia |
|---|---|---|---|---|---|
| 1 | Process Length | A long and complicated process. | Lengthy appeals and litigation processes. | Lengthy appeals and litigation processes. | A long and complicated process. |
| 2 | Legal Complexity | Regulations are complex and change frequently. | Regulations are complex and change frequently. | Regulations are complex and change frequently. | Regulations are complex and change frequently. |
| 3 | High Costs | High costs of processing and litigation. | Litigation costs are high. | Litigation costs are high. | High costs of processing and litigation. |
| 4 | Legal Uncertainty | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. |
| 5 | Lack of Transparency | The process is often not transparent. | The process is relatively transparent. | The process is relatively transparent. | The process is often not transparent. |
| 6 | Limitations of ADR | ADR is underutilized. | ADR is underutilized. | ADR is underutilized. | ADR is underutilized. |

| | | | | | |
|---|---|---|---|---|---|
| 7 | Limited Resources | Limited human resources and infrastructure. | Limited human resources and infrastructure. | Limited human resources and infrastructure. | Limited human resources and infrastructure. |

The tax dispute resolution systems in Indonesia, Australia, the United States, and Russia face similar challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. However, there are differences in the level of access to ADR and transparency of the process. To overcome these challenges, comprehensive improvement efforts are needed, including simplifying regulations, increasing transparency, socializing ADR, and utilizing technology. In this way, the tax dispute resolution system can run more efficiently, fairly, and transparently in all countries.

## 4. Conclusion

Indonesia and the United States have more structured systems with specialized institutions for tax disputes (the Tax Court and the United States Tax Court), while Australia and Russia rely on general or administrative justice systems. Australia and the United States are more advanced in the use of Alternative Dispute Resolution (ADR) such as mediation and arbitration, which can reduce the burden on the courts and speed up resolution. Russia has a simpler but less specialized system for handling tax disputes. Indonesia has a clear legal framework for tax disputes, but needs to improve the efficiency and use of ADR methods. Indonesia can learn from Australia and the United States in terms of using Alternative Dispute Resolution (ADR) such as mediation and arbitration to expedite dispute resolution. Australia and the United States have shown that administrative efficiency and good ADR programs can reduce the burden on the courts. Russia can consider establishing a special tax court and increasing the use of mediation to improve the efficiency of dispute resolution. Indonesia also needs to improve transparency, human resource capacity, and taxpayer education to build a fairer and more efficient system. By learning from each other's best practices, tax dispute resolution systems around the world can become more effective, fair, and efficient.

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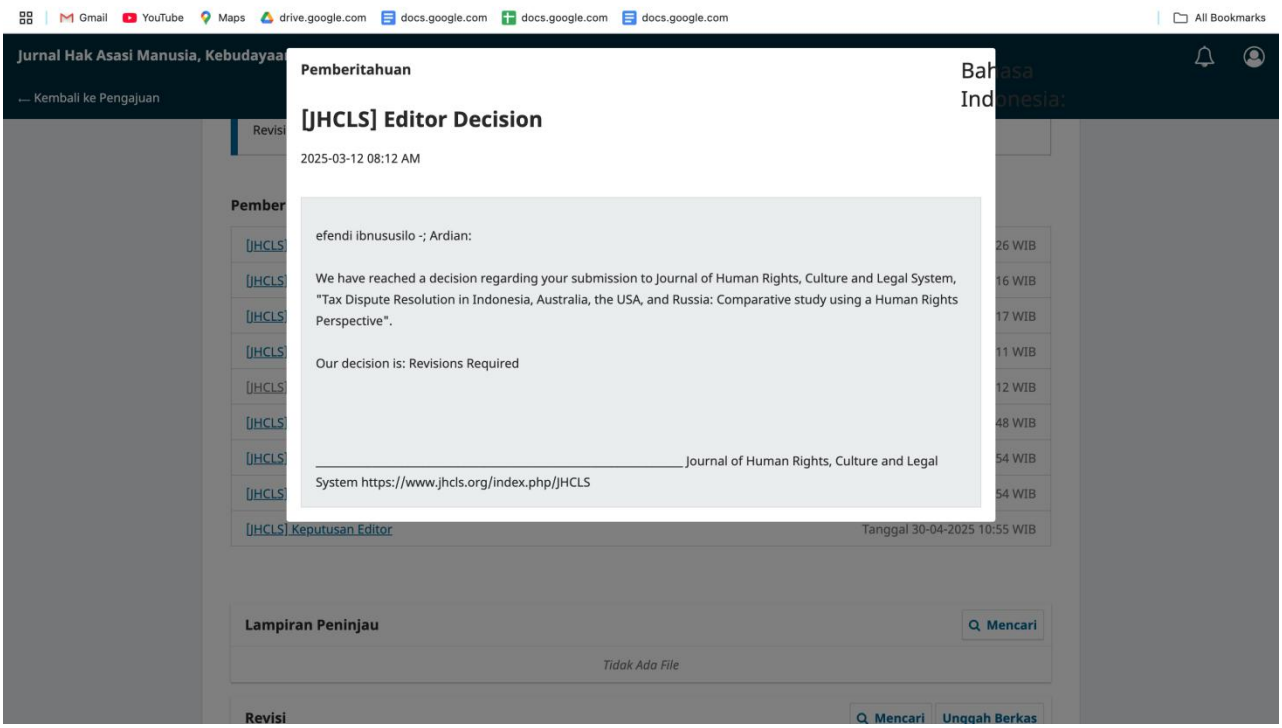

**Hasil review dari reviewer dengan memberikan catatan langsung**

# Tax Dispute Resolution Across Indonesia, Australia, the USA, and Russia

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ABSTRACT

The tax dispute resolution system is an important aspect of tax administration in every country. Tax disputes often arise due to differences in interpretation between Taxpayers and tax authorities regarding tax provisions, tax assessments, or the implementation of tax obligations. By comparing tax dispute resolution systems in various countries, best

**Keywords**

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Dispute Resolution;

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practices can be identified that can be applied to improve the tax system at the national level. This comparison is also expected to provide new insights and useful recommendations for stakeholders in an effort to improve a fairer, more transparent, and more efficient tax dispute resolution system. This type of research is normative legal research, using a comparative approach by conducting a comparative study. The theoretical basis used by the author is the theory of justice. The results of this study indicate that Indonesia and the United States have a more structured system with special institutions for tax disputes (Tax Court and United States Tax Court), while Australia and Russia rely on the general or administrative justice system. Australia and the United States are more advanced in the use of Alternative Dispute Resolution (ALR) such as mediation and arbitration, which can reduce the burden on the courts and speed up settlement. Russia has a simpler system but lacks specialist means of handling tax disputes. Indonesia has a clear legal framework for tax disputes, but needs to improve efficiency and the use of alternative dispute resolution methods. The solution for each country is that Indonesia can learn from Australia and the United States in terms of the use of Alternative Dispute Resolution (ALDR) such as mediation and arbitration to expedite dispute resolution. Australia and the United States have shown that administrative efficiency and good ADR programs can reduce the burden on the courts. Russia can consider establishing a dedicated tax court and increasing the use of mediation to improve the efficiency of dispute resolution. Indonesia also needs to improve transparency, human resource capacity, and taxpayer education to build a fairer and more efficient system. By learning from each other's best practices, tax dispute resolution systems around the world can become more effective, fair, and efficient.

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## 1. Introduction

Tax dispute resolution refers to the process of resolving disputes or conflicts between Taxpayers and tax authorities (such as the Directorate General of Taxes/DGT) regarding the application of tax provisions.[1] Tax disputes may arise due to differences in interpretation of tax regulations, disagreements regarding the amount of tax payable, or other issues relating to tax rights and obligations.[2]

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The tax dispute resolution process involves various mechanisms, both through administrative channels (such as filing objections) and legal channels (such as appeals to the Tax Court or other legal remedies).[3] The goal is to achieve a resolution that is fair, transparent, and in accordance with applicable laws and regulations.[4]

An effective tax dispute resolution mechanism is essential for various parties, including Taxpayers, tax authorities and the government.[5]

An effective tax dispute resolution mechanism can increase taxpayers' trust in the tax system.[6] With trust, taxpayers will be more compliant in fulfilling their tax obligations, which ultimately increases tax revenues.[7] An effective mechanism provides legal certainty for taxpayers and tax authorities.[8] Legal certainty reduces uncertainty and legal risk, which can encourage investment and economic growth.[9] A fast and efficient dispute resolution process reduces the administrative burden on tax authorities.[10] This allows tax authorities to focus on other more strategic tasks, such as improving tax compliance and combating tax evasion.[11] An effective mechanism reduces the costs and time spent by taxpayers and tax authorities in resolving disputes.[12] This reduction in costs and time can increase efficiency and productivity for both parties.[13] An effective mechanism ensures that tax disputes are resolved fairly and transparently.[14] Fairness and openness increase public trust in the tax system and government.[15] An effective tax dispute resolution mechanism creates a stable

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and predictable business environment.[16] This encourages foreign and domestic investment, which ultimately supports economic growth.[17]

An effective mechanism can reduce the amount of unnecessary litigation and facilitate the amicable resolution of disputes.[18] This reduces the burden on the courts and allows resources to be used for more important cases.[19] An effective tax dispute resolution mechanism enhances the country's reputation in the eyes of international investors and global financial institutions.[20] A good reputation can attract more foreign investment and improve the country's position in ease of doing business rankings.[21] An effective mechanism ensures that tax decisions are based on careful analysis and strong evidence.[22] This improves the quality of tax decisions and reduces the possibility of errors or unfairness.[23] An effective mechanism encourages the amicable resolution of disputes through mediation and arbitration. This reduces tensions between taxpayers and tax authorities and creates a more harmonious relationship.[24]

Regulatory issues regarding tax dispute resolution in Indonesia cover various aspects, ranging from regulatory complexity, ambiguity in interpretation, to inefficiency in the dispute resolution process.[25]

Tax regulations in Indonesia are often very complex and experience frequent changes, the impact of which is that Taxpayers have difficulty understanding and complying with applicable regulations, and frequent changes cause legal uncertainty and difficulties in interpretation.[26] Many tax provisions are open to multiple interpretations, resulting in differences in interpretation between Taxpayers and tax authorities, disputes often arise due to differences in interpretation and the dispute resolution process becomes longer and

[16] Wa Mareza Dwi Nugraheni, Hadi Pramono, Ani Kusbandiyah, and Nur Isna Inayati, 'Pengaruh Perencanaan Pajak, Aset Pajak Tangguhan, Beban Pajak Tangguhan, Free Cash Flow, Profitabilitas dan Kepemilikan Manajerial yang Mempengaruhi Manajemen Laba (Studi Kasus pada Perusahaan Sektor Consumer Non-Cyclicals periode 2019-2021)', *JEMSI (Jurnal Ekonomi, Manajemen, Dan Akuntansi*), 9.3 (2023), 628-641 https://doi.org/10.35870/jemsi.v9i3.1106

[17] Mardhiyah Alfath Annisaa, and Siti Nuryanah, 'Evaluasi Manajemen Perpajakan Atas Pajak Pertambahan Nilai (Studi Kasus Pada Perusahaan Start-Up X)', *Journal of Economics and Business UBS*, 12.4 (2023), 2532-2549 https://doi.org/10.52644/joeb.v12i4.408

[18] Anindya Nariswari, Sarah Selli Ardelia, Puji Wahono, and Indra Pahala, 'Manajemen Perpajakan: Analisis Perencanaan Pajak Pertambahan Nilai di Indonesia (Kajian Literatur)', *Jurnal Ekonomi dan Manajemen Teknologi(EMT) KITA*, 8.3 (2024), 854-863 https://doi.org/10.35870/emt.v8i3.2607

[19] Rustian Mushawirya, 'The Position Of The Tax Jurisdiction In The System Judicial In Indonesia', *Journal of Administration Law*, 5.1 (2024), 92-105 https://doi.org/10.22437/mendapo.v5i1.31383

[20] Maralus Samosir, and Yusuf Gunawan, 'Analisa Yuridis Sengketa Pajak Pada Pengadilan Tata Usaha Negara Terhadap Surat Ketetapan Pajak Studi Kasus Putusan Pengadilan No 606 K/Tun/2022', *JUSAPAK Jurnal Studi Akuntansi Pajak Keuangan*, 2.1 (2024), 8-22 https://doi.org/10.61696/jusapak.v2i1.218

[21] Ardiansyah, and Wahyudin, 'Politik Hukum Tindak Pidana Perpajakan dalam Perspektif Restorative Justice', *Mimbar Keadilan Journal For Law & Justice,* 16.2 (2023), 221-233 https://doi.org/10.30996/mk.v16i2.7977

[22] Priyambodo Adi, Pajri Arifpadilah, Achmad Iyyan N, Nur Fadhilla Erlis, and Yogi Syahputra Alidrus, 'Penerapan Self-Assestment System Dalam Npwp Sebagai Upaya Progresif Terhadap Eksistensi Pajak Di Indonesia', *Jurnal Indonesia Sosial Teknologi*, 4.7 (2023), 865-874 https://doi.org/10.59141/jist.v4i7.646

[23] Winahyu Erwiningsih, 'Implementasi Penyelesaian Sengketa Pajak Pada Pengadilan Pajak Indonesia', *Justicia Sains: Jurnal Ilmu Hukum,* 6.2 (2022), 248-262 https://doi.org/10.24967/jcs.v6i2.1585

[24] Dedi Sugiyanto, 'Analisis Yuridis Pasal 5 Ayat 2 Undang-Undang Republik Indonesia Nomor 14 Tahun 2002 Tentang Pengadilan Pajak Ditinjau Dari Pasal 24 Ayat 1 Dan Ayat 2 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *Al-Adl: Jurnal Hukum,* 13. 1 (2021), 116-134 https://doi.org/http://dx.doi.org/10.31602/al-adl.v13i1.4248

[25] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8*.1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

[26] Johannes Aritonang, 'Analisis sengketa pajak atas biaya seragam (studi kasus atas Putusan Peninjauan Kembali Nomor 1710/B/Pk/Pjk/2016)', *Simposium Nasional Keuangan Negara*, 1.1 (2018), 497-518 https://api.semanticscholar.org/CorpusID:188956935

more complicated.[27] Tax authorities have great authority in determining the amount of tax payable and issuing tax assessment letters, taxpayers often feel that they do not have equal power in dealing with tax authorities, this can lead to dissatisfaction and distrust of the tax system.[28] The tax dispute resolution process involves several stages (objection, appeal, lawsuit, cassation, and judicial review) which can take years, causing legal uncertainty for Taxpayers, hampering investment and economic growth.[29] The limited number and quality of human resources at the Directorate General of Taxes and the Tax Court, the examination and dispute resolution process becomes slow and less effective, the quality of the decisions produced may not be optimal.[30] The costs incurred for the tax dispute resolution process, including legal and administrative costs, can be very high, burdening Taxpayers, especially Small and Medium Enterprises (SMEs), reducing Taxpayers' interest in resolving disputes through legal channels. Lack of transparency and accountability in the tax dispute resolution process leads to distrust in the tax system and the decisions taken may be considered unfair by Taxpayers.[31] Even though there is a Tax Court, there is still a reliance on the general court system for certain cases, resulting in inconsistencies in decisions and handling of tax disputes, making the dispute resolution process longer and more complex. Lack of socialization and education to Taxpayers regarding tax rights and obligations and the dispute resolution process, Taxpayers often do not understand the processes and procedures that must be followed, causing errors and dissatisfaction in the dispute resolution process.[32] Mediation and arbitration as alternatives for resolving tax disputes have not been widely utilized, which has the effect of reducing the effectiveness of resolving disputes quickly and fairly, and then taxpayers tend to choose the longer and more complicated litigation path.

The following is an overview and comparison of the number and mechanisms for resolving tax disputes in Indonesia, Australia, the United States and Russia.[33]

Comparison of Number of Tax Dispute Settlement

| No | Country | Number of Cases per Year | Completion Level | Settlement Mechanism |
|---|---|---|---|---|
| 1 | Indonesia | 2,000-3,000 cases | 70-80% | Objection, Appeal, Lawsuit, Cassation, PK |
| 2 | Australia | 30,000-40,000 objections | 80-90% | Objection, AAT, Federal Court, ADR |
| 3 | United States of America | 100,000-150,000 cases | 90% | IRS Appeals, U.S. Tax Court, Federal Courts, ADR |

[27] Gusti Agung Ayu Intan Maharani, I Dewa Made Endiana, and Putu Diah Kumalasari, 'Pengaruh Moral Wajib Pajak,Sanksi Pajak, Sistem Pajak, Pemeriksaan Pajak Dan Tarif Pajak Terhadap Persepsi Wajib Pajak Mengenai Etika Atas Tax Evasion', *Jurnal Kharisma*, 3.1 (2021), 63-72 https://e-journal.unmas.ac.id/index.php/kharisma/article/view/1679

[28] Sudarsono, Tunggul Anshari Setia Negara, and Imam Koeswahyono, 'Tax dispute settlement mediation arrangements in the future tax court', *International Journal of Research in Business and Social Science,* 11.5 (2022), 503-511 https://doi.org/10.20525/ijrbs.v11i5.1867

[29] Wellia Novita, Rida Rahim, and Fajri Adrianto, 'Sengketa Pajak dalam Perspektif Wajib Pajak (Studi Kasus Restitusi Pajak ADHI-IBG, KSO)', *Owner: Riset & Jurnal Akuntansi*, 6.3 (2022), 2594-2601 https://doi.org/10.33395/owner.v6i3.950

[30] Dewi Kusuma Wardani, Adia Adi Prabowo, and Arwiyah Nurul Aini, 'Pengaruh Transparansi Pajak Oleh Fiskus Dan Trust Terhadap Kepatuhan Wajib Pajak (Studi Kasus Pada Wajib Pajak Orang Pribadi di Kabupaten Belitung Timur)', *Jurnal Akuntansi dan Keuangan,* 1.2 (2022), 141-148 https://doi.org/10.54259/akua.v1i2.207

[31] Supriyadi, Beny Setiawan, and Randy Matius Bintang, 'Evaluasi Lembaga Keberatan Dalam Penyelesaian Sengketa Pajak Yang Adil Di Direktorat Jenderal Pajak', *Jurnal Pajak Indonesia (Indonesian Tax Review), 2.*2 (2018), 6-19 https://doi.org/10.31092/jpi.v2i2.640

[32] Rasyidah Che Rosli, Lai Ming Ling, and Roslani Embi, 'Tax malfeasance of high net-worth individuals in Malaysia: tax audited cases', *Journal of Financial Crime*, 25.1 (2018), 155-169 https://doi.org/10.1108/JFC-11-2016-0070

[33] Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak dan Persidangan Secara Elektronik (E-Tax Court) Suatu Tinjauan Pustaka', *Jurnal Pajak Indonesia (Indonesian Tax Review), 8.*1 (2024), 127-144 https://doi.org/10.31092/jpi.v8i1.2694

| | | | | |
|---|---|---|---|---|
| 4 | Russia | 50,000-60,000 cases | 60-70% | Administrative Appeals, Arbitration Courts, Supreme Court |

From the table above, it can be said that Indonesia has a relatively small number of tax dispute cases, but the settlement process tends to be longer and more complicated.[34] Australia has an efficient dispute resolution mechanism with a high resolution rate through objections and ADR. The United States has a very large number of tax dispute cases, but the resolution rate is also very high thanks to the effective IRS Appeals and ADR mechanisms. Russia has a fairly large number of tax dispute cases, but the resolution rate is lower than Australia and the United States, with many cases being resolved through the courts.

The author compares tax dispute resolution in Indonesia with Australia, the United States, and Russia for several important reasons that are relevant to understanding the global context and learning from best practices in these countries. This comparison is done to provide a broader perspective on how tax dispute resolution can be improved in Indonesia. By studying the systems and practices in Australia, the United States, and Russia, Indonesia can identify areas for improvement and adopt solutions that have proven successful in these countries. This will ultimately help create a fairer, more efficient, and more reliable tax system.

**Commented [ap2]:** The urgency of this research is unclear, and it is essential to demonstrate, through at least five prior studies, how your research compares to existing work.

## 2.Research Method

This research is normative legal research,[35] By using legal, conceptual, comparative legal and Systematic Literature Review approaches.[36] Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as previously published journals, with a focus on the theory discussed within a certain scope.[37] A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approaches.[38] This research uses the document study method as the chosen data collection strategy.[39] The data used is secondary data based on literature studies,[40] primary legal

[34] Anisya Sukmawati, and Aan Bukhori, 'Pelaksanaan Penyelesaian Sengketa Banding Pajak Pertambahan Nilai Di Pengadilan Pajak (Studi Kasus Pada PT. MPFI)', *VOK@SINDO : Jurnal Ilmu-Ilmu Terapan dan Hasil Karya Nyata*, 9.1 (2021), 12-27 https://doi.org/10.21776/ub.vokasindo.2021.009.1.2

[35] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum,* 30.1 (2022), 131-46 https://doi.org/10.22219/ljih.v30i1.20764

[36] Jamal Wiwoho, Irwan Trinugroho, Dona Budi Kharisma, and Pujiyono Suwadi, 'Islamic crypto assets and regulatory framework: evidence from Indonesia and global approaches', *International Journal of Law and Management,* 66.2 (2024). 155-171 https://doi.org/10.1108/IJLMA-03-2023-0051

[37] Farhan Saputra, and Habzi Ali, 'Penerapan Manajemen Poac: Pemulihan Ekonomi Serta Ketahanan Nasional Pada Masa Pandemi Covid-19 (Literature Review Manajemen Poac)'. *Jurnal Ilmu Manajemen Terapan*, 3.3 (2022), 316–328 https://doi.org/10.31933/jimt.v3i3.733

[38] Abdul Kadir Jaelani, and Muhammad Jihadul Hayat, 'The Proliferation of Regional Regulation Cancellation in Indonesia', *Journal of Human Rights, Culture and Legal System*, 2.2 (2022), 121-138 https://doi.org/10.53955/jhcls.v2i2.38

[39] Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *Journal Of Indonesian Legal Studies*, 8.1 (2023), 243-88 https://doi.org/10.15294/jils.v8i1.67632

[40] Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies : Evidence from China', *Legality : Jurnal Ilmiah Hukum,* 31.2 (2023), 202-223 https://doi.org/https://doi.org/10.22219/ljih.v31i2.25874

materials, namely laws and legal theories,[41] Secondary legal materials consist of books, articles and research findings.[42] As well as studying further primary legal materials at a theoretical level and how they are applied relevantly.[43]

Legal sources in resolving tax disputes in Indonesia include various laws and regulations, legal principles, and international practices.[44] Formal legal sources such as 1945 Constitution, Law Number 6 of 1983 concerning General Provisions and Tax Procedures (KUP), Law Number 7 of 1983 concerning Income Tax (PPh), Law Number 14 of 2002 concerning Tax Court, Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Government Regulation Number 55 of 2012 concerning National Strategy for Prevention and Eradication of Corruption, Regulation of the Minister of Finance Number 9/PMK.03/2013 concerning Procedures for Filing and Resolving Objections, Regulation of the Minister of Finance Number 17/PMK.03/2013 concerning Procedures for Filing and Resolving Appeals, Decree of the Director General of Taxes Number KEP-545/PJ/2000 concerning Procedures for Filing and Resolving Objections, Decree of the Director General of Taxes Number KEP-546/PJ/2000 concerning Procedures for Submitting and Resolving Appeals, and court decisions have binding force, while material legal sources such as the principles of justice and international practice provide a philosophical and contextual basis.

The analytical methods that the author uses to analyze the issue of tax dispute resolution are Normative Legal Analysis and Comparative Legal Analysis. Normative legal analysis focuses on the review of laws and regulations, legal principles, and court decisions (jurisprudence). Comparative legal analysis compares legal systems and practices in Indonesia with other countries to identify best practices. The countries that the author uses to compare with Indonesia are Australia, America, and Russia.[45]

The mechanism for analyzing legal issues in tax settlement requires a systematic and comprehensive approach. Here the author compares legal issues with practices and regulations in other countries. How do Australia, the United States, or Russia resolve similar issues? Are there any acceptable best practices? The purpose of comparing them is to provide a global perspective and find innovative solutions.

## 3. Results and Discussion

### 3.1. Legal Framework For Tax Dispute Resolution

The legal framework for tax dispute resolution in Indonesia, Australia, the United States (US), and Russia has similarities in terms of general stages, such as internal resolution at the tax authority, appeal to a special tax court, and litigation in a high court. However, there are

[41] Abdul Kadir Jaelani, Muhammad Jihadul Hayat, and others, 'Green Tourism Regulation on Sustainable Development : Droning from Indonesia And', *Journal of Indonesian Legal Studies,* 8.2 (2023), 663-706 https://doi.org/https://doi.org/10.15294/jils.v8i2.72210

[42] Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) 31-42 https://doi.org/10.53955/jhcls.v1i1.5

[43] Abdul Kadir Jaelani, Resti Dian Luthviati, and Muhammad Jihadul Hayat, 'Halal Tourism Sector and Tax Allowance Policy : A Case Study Observed from Normative Problems to Effective Implementation', Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan, 23.2 (2023), 185-210 https://doi.org/10.18326/ijtihad.v23i2.185-210

[44] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System,* 4.2 (2024). 299-330 https://doi.org/10.53955/jhcls.v4i2.259

[45] Heru Setiawan, I Gusti Ayu Ketut Rachmi Handayani, M. Guntur Hamzah, and Hilaire Tegnan, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System,* 4.2 (2024), 263-298 https://doi.org/10.53955/jhcls.v4i2.263

differences in the details of the procedures, the institutions involved, and the underlying legal framework.[46] The following is a detailed explanation of the legal framework for tax dispute resolution in the four countries:

### 3.1.1 Legal framework for tax dispute resolution in Indonesia

The legal framework for resolving tax disputes in Indonesia has been comprehensively regulated in various laws and regulations, starting from the KUP Law, the Tax Court Law, Government Regulations, PMK, PERDIRJEN, to the decisions of the Constitutional Court and PERMA.[47] Here is the review:

1. Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP). UU KUP is the main legal basis that regulates the procedures for resolving tax disputes. Several important articles in the KUP Law relating to the resolution of tax disputes are: Article 25: Regulates the submission of objections by Taxpayers to Tax Assessment Letters (SKP) or Tax Bills (STP). Article 26: Regulates the examination process and decisions on objections submitted by Taxpayers. Article 27: Regulates the submission of appeals to the Tax Court if the Taxpayer is not satisfied with the objection decision. Article 28: Regulates lawsuits to the Tax Court if the Taxpayer or the Directorate General of Taxes (DJP) is not satisfied with the appeal decision. Article 29: Regulates judicial review to the Supreme Court (MA) if there are strong legal reasons.
2. Law Number 14 of 2002 concerning Tax Court. The Tax Court Law regulates the establishment, authority, and procedural procedures in the Tax Court. Several important articles in the Tax Court Law are: Article 1: Regulates the establishment of the Tax Court as a special judicial institution tasked with resolving tax disputes. Article 2: Regulates the authority of the Tax Court to examine and decide tax disputes. Article 3: Regulates the procedural procedures in the Tax Court, including filing appeals and lawsuits. Article 4: Regulates the final and binding decisions of the Tax Court.
3. Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations. This Government Regulation regulates the procedures for the implementation of tax rights and fulfillment of tax obligations, including the resolution of tax disputes. Several important articles in this Government Regulation are: Article 1: Regulates the definition and scope of tax disputes. Article 2: Regulates the procedures for filing objections, appeals, and lawsuits. Article 3: Regulates the examination process and decisions on objections, appeals, and lawsuits.
4. Regulation of the Minister of Finance (PMK) and Regulation of the Director General of Taxes (PERDIRJEN). PMK and PERDIRJEN regulate the technical implementation of tax dispute resolution. Some important regulations are: PMK Number 9/PMK.03/2013 concerning Procedures for Filing and Settling Objections: Regulates the procedures for filing and resolving objections by Taxpayers. PMK Number 17/PMK.03/2013 concerning Procedures for Filing and Settling Appeals: Regulates the procedures for filing and resolving appeals to the Tax Court. PERDIRJEN Number PER-09/PJ/2017 concerning Procedures for Filing and Settling Lawsuits: Regulates the procedures for filing and resolving lawsuits to the Tax Court.

[46] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331-335 https://doi.org/10.22225/ah.2.3.2020.331-335
[47] Ravi Hafids Maheswara, 'Prinsip-Prinsip Peradilan Pajak DalamPenyelesaian Sengketa Pajak'. *NOTAIRE Journal of Notarial Law*, 3.3 (2020), 441-468 https://doi.org/10.20473/ntr.v3i3.22836

5. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The Arbitration and Alternative Dispute Resolution Law regulates dispute resolution outside the court, including tax disputes. Several important articles in this law are: Article 1: Regulates the definition and scope of arbitration and alternative dispute resolution. Article 2: Regulates the procedures for submitting and resolving disputes through arbitration and alternative dispute resolution.
6. Constitutional Court (MK) Decisions. The Constitutional Court's decisions also serve as the legal basis for resolving tax disputes, especially those related to the constitutionality of a statutory regulation. Some important Constitutional Court decisions are: Constitutional Court Decision Number 63/PUU-X/2012: Regulates the constitutionality of articles in the KUP Law related to the resolution of tax disputes. Constitutional Court Decision Number 49/PUU-X/2012: Regulates the constitutionality of articles in the Tax Court Law related to the resolution of tax disputes.
7. Supreme Court Regulation (PERMA). PERMA regulates the procedures for proceedings in the Supreme Court, including in resolving tax disputes. Some important regulations are: PERMA Number 1 of 2011 concerning Procedures for Filing and Resolving Judicial Review: Regulates the procedures for filing and resolving judicial reviews to the Supreme Court. PERMA Number 2 of 2011 concerning Procedures for Proceeding in the Tax Court: Regulates the procedures for procedural proceedings in the Tax Court.
8. International Regulations. Indonesia is also bound by international regulations in resolving tax disputes, especially those related to international taxation and double taxation avoidance. Some important regulations are: Double Taxation Avoidance Agreement (P3B): Regulates the settlement of tax disputes between Indonesia and other countries. OECD Model Tax Convention: Serves as a reference in resolving international tax disputes.

### 3.1.2 The legal framework for tax dispute resolution in Australia

The legal framework for resolving tax disputes in Australia is governed by the Australian Taxation Office (ATO) as the national tax authority, as well as through a structured tax court system.[48] The legal basis involves a number of statutes and regulations, including the Taxation Administration Act 1953, the Income Tax Assessment Acts 1936 and 1997, the GST Act 1999, the AAT Act 1975, the Federal Court of Australia Act 1976, and the High Court of Australia Act 1979. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Commonwealth Ombudsman.[49] The following is a detailed explanation of the legal framework for resolving tax disputes in Australia:

1. Taxation Administration Act 1953 (TAA 1953). The TAA 1953 is the principal legislation governing tax administration in Australia, including the procedure for resolving tax disputes. Some of the key provisions of the TAA 1953 are: Part IVC: Sets out the process for appealing tax decisions, including objections and appeals to the Administrative Appeals Tribunal (AAT) or the Federal Court of Australia. Part 14ZL: Sets out the taxpayer's right to object to a decision of the ATO. Part 14ZZ: Sets out the process for

**Commented [ap3]:** This is not a result; the author merely reproduces text from the law without conducting a thorough analysis or providing theoretical explanation. It is unworthy of publication in JHCLS.
The results emphasize addressing the issue rather than merely replicating the law, particularly in cases where there are a, b, c... which is highly unsuitable.

[48] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[49] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

appealing to the AAT or the Federal Court if the taxpayer is dissatisfied with the outcome of the objection.

2. Income Tax Assessment Act 1936 and 1997 (ITAA 1936 & ITAA 1997). The ITAA 1936 and ITAA 1997 are the laws that govern the assessment and imposition of income tax in Australia. Some of the key provisions of the ITAA 1936 and ITAA 1997 are: Section 175A ITAA 1936: Sets out the ATO's powers to make tax decisions. Section 177 ITAA 1936: Sets out the tax assessment process and the issuance of Notices of Assessment. Section 8-1 ITAA 1997: Sets out tax deductions for deductible expenses.
3. A New Tax System (Goods and Services Tax) Act 1999 (GST Act). The GST Act regulates the Goods and Services Tax (GST) in Australia. Some of the key provisions of the GST Act are: Section 7-1: Sets out GST liabilities and input tax credits. Section 105-5: Sets out the reassessment and appeals process for GST decisions.
4. Administrative Appeals Tribunal Act 1975 (AAT Act). The AAT Act regulates the establishment and functioning of the Administrative Appeals Tribunal (AAT), which is tasked with reviewing administrative decisions, including tax decisions. Some of the key provisions of the AAT Act are: Section 25: Sets out the AAT's powers to review tax decisions. Section 29: Sets out the procedure for making appeals to the AAT. Section 43: Sets out the AAT's powers to vary, overturn or uphold ATO decisions.
5. Federal Court of Australia Act 1976. The Federal Court of Australia Act 1976 provides for the establishment and functioning of the Federal Court of Australia, which has jurisdiction to hear appeals from decisions of the AAT. Some of the key provisions of the Federal Court of Australia Act 1976 are: Section 24: Sets out the powers of the Federal Court to hear appeals from decisions of the AAT. Section 25: Sets out the procedure for appeals to the Federal Court.
6. High Court of Australia Act 1979. The High Court of Australia Act 1979 regulates the establishment and functioning of the High Court of Australia, which is the highest court in Australia. Some of the key provisions of the High Court of Australia Act 1979 are: Section 35A: Sets out the High Court's powers to hear appeals from decisions of the Federal Court. Section 35AA: Sets out the procedure for appeals to the High Court.
7. Taxpayer's Charter. A Taxpayer's Charter is a document issued by the ATO that explains the rights and obligations of taxpayers. Some of the taxpayer's rights set out in the Taxpayer's Charter are: Right to Object: Taxpayers have the right to object to ATO decisions. Right to Get Assistance: Taxpayers have the right to get assistance and information from the ATO. Right to Appeal: Taxpayers have the right to appeal to the AAT or the court if they are not satisfied with the outcome of the objection.
8. ATO Rules and Guidelines. The ATO also issues a range of rules and guidelines that govern tax dispute resolution procedures. Some important rules and guidelines are: Taxation Rulings (TR): Provides guidance on the interpretation of tax laws. Practice Statements (PS): Provides guidance on the administration and resolution of tax disputes. Guidelines for Dispute Resolution: Provides guidance on the use of Alternative Dispute Resolution (ADR) in resolving tax disputes.

### 3.1.3 The legal framework for tax dispute resolution in America

The legal framework for resolving tax disputes in the United States (US) is regulated by the Internal Revenue Service (IRS) as the federal tax authority, as well as through a

structured tax court system.[50] The legal basis for resolving tax disputes in the United States (US) is regulated by a number of federal laws, IRS (Internal Revenue Service) regulations, and court decisions. This legal framework includes administrative processes within the IRS, appeals to special tax courts, and litigation in federal courts.[51] The following is a detailed explanation of the legal framework for resolving tax disputes in the United States:

1. Internal Revenue Code (IRC). The Internal Revenue Code (IRC) is the primary law governing taxation in the United States. The IRC contains provisions on taxpayer rights and obligations, including procedures for resolving tax disputes. Some important sections of the IRC that are relevant to resolving tax disputes are: Section 6212: Regulates the issuance of a Notice of Deficiency by the IRS, which serves as the basis for a taxpayer to appeal to the United States Tax Court. Section 6213: Regulates the taxpayer's right to appeal to the Tax Court within 90 days of receiving a Notice of Deficiency. Section 6404: Regulates the IRS's authority to cancel or reduce administrative penalties if the taxpayer can show a valid reason. Section 7122: Regulates the Offer in Compromise (OIC) process, which is an agreement between the taxpayer and the IRS to settle the tax debt for a lower amount. Section 7422: Provides for the right of taxpayers to file a refund suit in the United States District Court or the United States Court of Federal Claims.
2. Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 1998). The RRA of 1998 is a law that reformed the IRS and strengthened taxpayer rights in the tax dispute resolution process. Some of the key provisions of the RRA of 1998 are: Establishment of the Office of Appeals: Created the Appeals Office as an independent unit within the IRS charged with reviewing tax decisions fairly and impartially. Taxpayer Rights: Strengthened taxpayer rights, including the right to receive assistance from the Taxpayer Advocate Service (TAS) and the right to appeal to the courts. Alternative Dispute Resolution (ADR): Encouraged the use of ADR, such as mediation and arbitration, to resolve tax disputes expeditiously and efficiently.
3. Taxpayer Bill of Rights. The Taxpayer Bill of Rights is a document issued by the IRS that explains the rights of taxpayers in interacting with the IRS. Some important rights regulated in the Taxpayer Bill of Rights are: Right to File an Objection: Taxpayers have the right to file an objection to an IRS decision. Right to Get Assistance: Taxpayers have the right to get assistance from the Taxpayer Advocate Service (TAS) if they have difficulty in resolving tax problems. Right to File an Appeal: Taxpayers have the right to file an appeal to the court if they are not satisfied with the results of the objection.
4. Administrative Procedure Act (APA). The Administrative Procedure Act (APA) governs administrative proceedings in federal agencies, including the IRS. Some key provisions of the APA that are relevant to resolving tax disputes are: Section 554: Sets forth the administrative hearing process, including the taxpayer's right to receive notice and an opportunity to be heard. Section 556: Sets forth the administrative hearing procedure, including the taxpayer's right to present evidence and witnesses. Section 557: Sets forth the administrative agency's authority to make decisions based on evidence presented at the hearing.

[50] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86*
https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

[51] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753
https://doi.org/10.46799/jsa.v5i7.1215

5. United States Tax Court Act. The United States Tax Court Act establishes and regulates the functioning of the United States Tax Court, a special court charged with handling federal tax disputes. Some of the key provisions of the United States Tax Court Act are: Section 7441: Establishes and governs the jurisdiction of the Tax Court. Section 7453: Provides for the procedures for litigation in the Tax Court, including the right of taxpayers to be represented by counsel or legal counsel. Section 7482: Provides for the appeal process to the United States Court of Appeals if a taxpayer or the IRS is dissatisfied with a Tax Court decision.
6. Judicial Code (Title 28 of the United States Code). The Judicial Code governs the federal judicial system in the United States, including the jurisdiction and procedure of federal courts. Some important provisions of the Judicial Code that are relevant to resolving tax disputes are: Section 1346(a)(1): Provides for the jurisdiction of the United States District Court to hear refund suits. Section 1491: Provides for the jurisdiction of the United States Court of Federal Claims to hear refund suits. Section 1291: Provides for the appeal process to the United States Court of Appeals if a taxpayer or the IRS is dissatisfied with a federal court decision.
7. IRS Regulations and Guidelines. The IRS issues a variety of regulations and guidelines that govern tax dispute resolution procedures. Some important regulations and guidelines are: Revenue Procedures (Rev. Proc.): Provides guidance on administrative procedures, including the objection and appeal process. Revenue Rulings (Rev. Rul.): Provides the IRS's official interpretation of tax laws. Internal Revenue Manual (IRM): Provides internal IRS guidance on tax dispute resolution procedures.
8. Alternative Dispute Resolution (ADR). The IRS encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some of the ADR methods outlined in IRS regulations are:
   a. Mediation: Set forth in Rev. Proc. 2014-63. The mediation process involves a neutral mediator who helps the taxpayer and the IRS reach an agreement.
   b. Arbitration: Set forth in Rev. Proc. 2006-44. The arbitration process involves an arbitrator selected by both parties who makes a binding decision.
   c. Fast Track Settlement (FTS): Set forth in Rev. Proc. 2003-40. The FTS process is designed to resolve disputes quickly through negotiation between the taxpayer and the IRS.
9. Role of Taxpayer Advocate Service (TAS). Taxpayer Advocate Service (TAS) is an independent unit within the IRS tasked with assisting taxpayers who are having difficulty resolving tax issues. Some of TAS's powers are: Providing Assistance: TAS provides assistance to taxpayers who are having administrative issues with the IRS. Making Recommendations: TAS can make recommendations to the IRS to improve services and decisions.

### 3.1.4 Legal framework for tax dispute resolution in Russia

The legal framework for resolving tax disputes in Russia is regulated by the Tax Code of the Russian Federation and other relevant laws and regulations. This legal framework includes administrative processes within the tax authorities (Federal Tax Service/FTS) as well

**Commented [ap4]:** This is not a result; the author merely reproduces text from the law without conducting a thorough analysis or providing theoretical explanation. It is unworthy of publication in JHCLS.
The results emphasize addressing the issue rather than merely replicating the law, particularly in cases where there are a, b, c... which is highly unsuitable.
This is just a literature review

as litigation processes in court.[52] The following is a detailed explanation of the legal basis for resolving tax disputes in Russia:

1. Tax Code of the Russian Federation. The Tax Code of the Russian Federation is the main law governing taxation in Russia, including the procedure for resolving tax disputes. Some important provisions of the Tax Code that are relevant to the resolution of tax disputes are:
    a. Taxpayer Rights and Obligations. Article 21: Regulates the rights of taxpayers, including the right to file objections to decisions of tax authorities. Article 23: Regulates the obligations of taxpayers, including the obligation to pay taxes and submit tax reports.
    b. Administrative Objection Process. Article 137: Regulates the rights of taxpayers to file objections to decisions of tax authorities. Article 138: Regulates the procedure for filing objections, including the time limit and required documents. Article 139: Regulates the process for reviewing objections by tax authorities, including the time limit for review.
    c. Administrative Sanctions. Article 114: Regulates administrative sanctions for tax violations, including fines and interest. Article 115: Regulates tax collection procedures and administrative sanctions.
2. Code of Administrative Procedure of the Russian Federation. The Code of Administrative Procedure regulates the procedure for proceedings in administrative courts, including tax disputes. Some of the important provisions of the Code of Administrative Procedure are:
    a. Jurisdiction of Administrative Courts. Article 1: Regulates the jurisdiction of administrative courts to examine disputes between Taxpayers and tax authorities. Article 2: Regulates the Taxpayer's right to file a lawsuit with an administrative court if they are dissatisfied with the tax authority's decision.
    b. Trial Process in Administrative Courts. Article 24: Regulates the procedure for filing a lawsuit with an administrative court, including the time limit and required documents. Article 25: Regulates the trial process, including the Taxpayer's right to present evidence and witnesses. Article 26: Regulates the decision of the administrative court, including the right to appeal.
3. Arbitration Procedure Code of the Russian Federation. The Arbitration Procedure Code regulates the procedure in commercial arbitration courts, including tax disputes. Some of the important provisions of the Arbitration Procedure Code are:
    a. Jurisdiction of the Arbitration Court. Article 27: Regulates the jurisdiction of the arbitration court to examine tax disputes involving legal entities and individual entrepreneurs. Article 28: Regulates the right of Taxpayers to file a lawsuit with an arbitration court if they are dissatisfied with the decision of the tax authority.
    b. Proceedings in the Arbitration Court. Article 125: Regulates the procedure for filing a lawsuit with an arbitration court, including the time limit and required documents. Article 126: Regulates the trial process, including the right of Taxpayers to present evidence and witnesses. Article 127: Regulates the decision of the arbitration court, including the right to appeal.

[52] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

4. Federal Tax Service (FTS) Regulations. The Federal Tax Service (FTS) issues various regulations and guidelines that govern tax dispute resolution procedures. Some important regulations and guidelines are:
    a. Regulation on Administrative Objections. Regulation No. 11/2017. Regulates the procedures for filing and reviewing administrative objections by tax authorities. Regulation No. 11/2017. Regulates the procedures for tax collection and administrative sanctions.
    b. Guidelines on Tax Dispute Resolution. Guidelines No. 11/2017. Provides guidance on the tax dispute resolution process, including the use of Alternative Dispute Resolution (ADR).
5. Alternative Dispute Resolution (ADR). Russia encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside the courts. Some ADR methods regulated in the legislation are:
    a. Mediation:Regulated in Article 138 of the Tax Code. The mediation process involves a neutral mediator to help the Taxpayer and the FTS reach an agreement.
    b. Negotiation:Regulated in Article 139 of the Tax Code. The negotiation process involves a direct agreement between the Taxpayer and the FTS.

The legal framework for tax dispute resolution in Indonesia, Australia, the United States, and Russia is similar in terms of general stages, such as internal resolution at the tax authority, appeal to a special court, and litigation in a high court. However, there are differences in the details of the procedures, time limits, and institutions involved. All four countries also encourage the use of Alternative Dispute Resolution (ADR) to resolve disputes quickly and efficiently. With a comprehensive legal framework, the tax dispute resolution system in all four countries is considered transparent, fair, and efficient.

### 3.2. Tax dispute resolution process

The tax dispute resolution process in Indonesia, Australia, the United States (US), and Russia has similarities in terms of general stages, such as internal resolution at the tax authority, appeal to a special tax court, and litigation in a high court.[53] However, there are differences in the details of the procedures, the institutions involved, and the underlying legal framework.[54] The following is a detailed comparison of the tax dispute resolution process in the four countries:

#### 3.2.1 Tax dispute resolution process in Indonesia

The process of resolving tax disputes in Indonesia is regulated in detail in the Law on General Provisions and Tax Procedures (UU KUP) and the Law on Tax Courts. This process involves several stages, starting from filing an objection to a judicial review at the Supreme Court (MA).[55] The following is a detailed explanation of the process of resolving tax disputes in Indonesia:

[53] Mulyono, Manotar Tampubolon, and Serirama Butarbutar, 'Perbandingan Penyelesaian Keberatan dan Banding Pajak di Amerika Serikat, Australia dan Indonesia', *Jurnal Syntax Admiration*, 5.7 (2024), 2738-2753 https://doi.org/10.46799/jsa.v5i7.1215

[54] Ahmad Zaini, 'Negara Hukum, Demokrasi, Dan Ham', *Al Qisthas: Jurnal Hukum Dan Politik Ketatanegaraan*, 11.1 (2020), 13-48 https://doi.org/10.37035/alqisthas.v11i1.3312

[55] Danel Aditia Situngkir, 'Asas Legalitas Dalam Hukum Pidana Nasional Dan Hukum Pidana Internasional', *Jurnal Soumatera Law Review*, 1.1 (2018), 22-42 https://doi.org10.22216/soumlaw.v1i1.3398

1. Filing Objections. Objections are the first stage in resolving tax disputes. Taxpayers can file objections if they disagree with the Tax Assessment Letter (SKP), Tax Bill (STP), or other decisions from the Directorate General of Taxes (DJP).[56] Objection Filing Procedure:
   a. Submission Time: Objections must be filed within 3 (three) months from the date of issuance of the SKP, STP, or other decisions.
   b. Form of Objection: Objections are submitted in writing in Indonesian and accompanied by clear reasons.
   c. Supporting Documents: Taxpayers must attach relevant supporting documents, such as proof of payment, financial statements, or other documents.
   d. Objection Examination: The DGT will examine the objection submitted and may request additional information or documents from the Taxpayer.
   e. Objection Decision: The DGT must provide a decision on the objection within 12 (twelve) months from the date the objection letter is received. The decision can be: Accept in full, Accept in part, Reject the objection.
2. Submission of Appeal to the Tax Court. If the Taxpayer is not satisfied with the objection decision, he/she can submit an appeal to the Tax Court.[57] Appeal Procedure:
   a. Submission Time: An appeal must be filed within 3 (three) months from the date the objection decision is received.
   b. Appeal Form: An appeal must be filed in writing in Indonesian and accompanied by clear reasons.
   c. Supporting Documents: Taxpayers must attach a copy of the objection decision and other supporting documents.
   d. Appeal Process: The Tax Court will examine the appeal filed and may request additional information or documents from the Taxpayer or the DGT.
   e. Appeal Decision: The Tax Court must issue a decision within 12 (twelve) months from the date the appeal application is received. The Tax Court's decision is final and binding, unless a judicial review is submitted to the Supreme Court (MA).
3. Filing a Lawsuit to the Tax Court. If the Taxpayer or the DGT is not satisfied with the appeal decision, they can file a lawsuit with the Tax Court. Lawsuit Filing Procedure:
   a. Filing Time: The lawsuit must be filed within 3 (three) months from the date the appeal decision is received.
   b. Form of Lawsuit: The lawsuit is filed in writing in Indonesian and accompanied by clear reasons.
   c. Supporting Documents: The Taxpayer or DGT must attach a copy of the appeal decision and other supporting documents.
   d. Lawsuit Process: The Tax Court will examine the filed lawsuit and may request additional information or documents from the Taxpayer or DGT.
   e. Lawsuit Decision: The Tax Court must issue a decision within 12 (twelve) months from the date the lawsuit application is received. The Tax Court's decision is final and binding, unless a judicial review is submitted to the Supreme Court (MA).

[56] Hwei Ming Wong, 'Implementing self-assessment in Singapore primary schools:effects on students'perceptions of self assessment', *Pedagogies: An International Journal,. Pedagogies: An International Journal*, 12.4 (2017). 391-409 https://doi.org/10.1080/1554480X.2017.1362348
[57] Budi Ispriyarso, 'Upaya Hukum Dalam Sengketa Pajak', *Jurnal Hukum Administrasi dan Pemerintahan*, 1.1 (2018), 9-14 https://doi.org/10.14710/alj.v1i1.9-14

4. Filing for a Judicial Review (PK) to the Supreme Court (MA). If there are strong legal reasons, such as new evidence or errors in the application of the law, the dissatisfied party can file a judicial review to the Supreme Court (MA). Procedure for Filing a Judicial Review:
    a. Submission Time: A judicial review must be submitted within 180 (one hundred and eighty) days from the date the Tax Court decision is received.
    b. Form of Judicial Review: A judicial review must be submitted in writing in Indonesian and accompanied by clear reasons.
    c. Supporting Documents: Taxpayers or the Directorate General of Taxes must attach a copy of the Tax Court decision and other supporting documents.
    d. Judicial Review Process: The Supreme Court will examine the judicial review application and may request additional information or documents from the Taxpayer or the Directorate General of Taxes.
    e. Judicial Review Decision: The Supreme Court must issue a decision within 12 (twelve) months from the date the judicial review application is received. The Supreme Court's decision is final and binding.
5. Alternative Dispute Resolution (APS). In addition to litigation, tax disputes can be resolved through Alternative Dispute Resolution (APS), such as:
    a. Mediation. Mediation Process: Settlement of disputes with the assistance of a neutral mediator. Agreement: If an agreement is reached, a mediation agreement will be made that is binding on both parties.
    b. Negotiation. Negotiation Process: Settlement of disputes through direct agreement between the Taxpayer and the DGT. Agreement: If an agreement is reached, a negotiation agreement will be made that is binding on both parties.
    c. Arbitration. Arbitration Process: Settlement of disputes through an arbitrator chosen by both parties. Arbitration Decision: The arbitrator's decision is final and binding.
6. Role of the Tax Court. The Tax Court plays an important role in resolving tax disputes. The following are its roles and authorities: Examining and deciding tax disputes between Taxpayers and the Directorate General of Taxes. Issuing final and binding decisions. Providing legal certainty in resolving tax disputes.

The tax dispute resolution system in Indonesia faces various challenges and shortcomings, such as lengthy processes, legal complexity, limited resources, legal uncertainty, lack of transparency, and high costs. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency, socialization, utilization of technology, and cost reduction.

### 3.2.2 Tax dispute resolution mechanisms in Australia

The tax dispute resolution mechanism in Australia is regulated by the Australian Taxation Office (ATO) as the national tax authority, as well as through a structured tax court system. The tax dispute resolution process in Australia involves several stages, starting from internal resolution at the ATO to litigation in court.[58] The following is a detailed explanation of the tax dispute resolution mechanism in Australia:

[58] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

1. Internal Resolution at the ATO. Before a tax dispute is referred to an external agency, the ATO provides an internal resolution mechanism. The stages include:
    a. Informal Discussion. Process: Taxpayers can discuss informally with ATO officers to resolve tax issues. Purpose: Reach an agreement without having to go through a formal process.
    b. Formal Objection Submission. Submission Time: Taxpayers can submit formal objections within 60 days of receiving the ATO decision. Form of Objection: Objections are submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach relevant supporting documents. Review Process: The ATO will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The ATO must provide a decision on the objection within the specified time. The decision can be: Accept in full, Accept in part, Reject the objection.
    c. Internal Review. Process: If a taxpayer is dissatisfied with the outcome of an objection, they can request an internal review by an independent team at the ATO. Purpose: To ensure ATO decisions are fair and consistent.
2. Settlement at the Administrative Appeals Tribunal (AAT). If the dispute is not resolved at the ATO level, the Taxpayer can appeal to the Administrative Appeals Tribunal (AAT).
    a. Submission of Appeal to the AAT. Lodging Time: Appeals must be lodged within 60 days of the ATO decision being received. Appeal Form: Appeals must be submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach a copy of the ATO decision and other supporting documents.
    b. Process at the AAT. Case Examination: The AAT will examine the case independently and may request additional evidence from the Taxpayer or the ATO. Hearing: The hearing process at the AAT is non-litigation and more informal than the courts. AAT Decision: The AAT can change, overturn or confirm the ATO decision. The AAT decision is binding on the ATO, but Taxpayers can appeal to the court if they are not satisfied.
3. Resolution in the Federal Court of Australia. If the Taxpayer or the ATO is dissatisfied with the AAT's decision, an appeal can be lodged with the Federal Court of Australia.
    a. Submission of Appeal to the Federal Court. Submission Time: Appeals must be submitted within 28 days of the AAT decision being received. Appeal Form: Appeals must be submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers or the ATO must attach a copy of the AAT decision and other supporting documents.
    b. Process in the Federal Court. Case Examination: The Federal Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Federal Court is litigious and more formal. Federal Court Decision: The Federal Court can change, overturn, or confirm the AAT decision. Federal Court decisions can be appealed to the Full Court of the Federal Court.
4. Resolution in the High Court of Australia. If the Taxpayer or the ATO is dissatisfied with the decision of the Federal Court, an appeal can be lodged with the High Court of Australia.
    a. Submission of Appeal to the High Court. Lodging Time: Appeals must be filed within 28 days of receipt of the Federal Court decision. Form of Appeal: Appeals are filed through a petition for writ of certiorari. Supporting Documents: The Taxpayer or

ATO must attach a copy of the Federal Court decision and other supporting documents.

b. High Court Process. Case Examination: The High Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the High Court is very formal and involves in-depth legal arguments. High Court Decision: The High Court can amend, overturn, or confirm the Federal Court decision. The High Court decision is final and binding.

5. Alternative Dispute Resolution (ADR). Australia encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some common ADR methods are:
   a. Mediation. Process: Settlement of disputes with the assistance of a neutral mediator. Purpose: Reaching an agreement between the Taxpayer and the ATO.
   b. Arbitration. Process: Settlement of disputes through an arbitrator chosen by both parties. Purpose: Reaching a binding decision.
   c. Fast Track Settlement (FTS). Process: Quick settlement of disputes through negotiations between the Taxpayer and the ATO. Purpose: Reaching an agreement in a short time.
6. Role of the Ombudsman. The Commonwealth Ombudsman is an independent body tasked with handling complaints against the ATO. Some of the powers of the Commonwealth Ombudsman are: Investigating Complaints: The Commonwealth Ombudsman can investigate taxpayer complaints against the ATO. Making Recommendations: The Commonwealth Ombudsman can make recommendations to the ATO to improve services and decisions.

The tax dispute resolution mechanism in Australia involves several stages, starting from internal resolution at the ATO, appeal to the AAT, to litigation in the Federal Court and High Court. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Commonwealth Ombudsman. With a comprehensive legal framework, Australia has a transparent, fair and efficient tax dispute resolution system.

### 3.2.3 Overview of the tax dispute resolution process in the United States

The tax dispute resolution process in the United States (US) is regulated by the Internal Revenue Service (IRS) as the federal tax authority, as well as through a structured tax court system. This process involves several stages, starting from internal resolution at the IRS to litigation in court.[59] The following is a detailed explanation of the general overview of the tax dispute resolution process in the US:

1. Internal Resolution at the IRS. Before a tax dispute is submitted to an external agency, the IRS provides an internal resolution mechanism. The stages include:
   a. Informal Discussion. Process: Taxpayers can discuss informally with IRS officers to resolve tax issues. Purpose: Reach an agreement without having to go through a formal process.
   b. Filing a Formal Objection (Protest). Submission Time: Taxpayers can file a formal objection within 30 days of receiving the Notice of Deficiency. Form of Objection: Objections are submitted in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach relevant supporting documents. Review Process:

[59] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86* https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

The IRS will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The IRS must provide a decision on the objection within a specified time. The decision can be: Accept in full, Accept in part, Reject the objection.

c. Internal Review. Process: If a taxpayer is dissatisfied with the outcome of an appeal, they may request an internal review by the Appeals Office at the IRS. Purpose: Ensure that IRS decisions are fair and consistent.

2. Settlement in the United States Tax Court. If the dispute is not resolved at the IRS level, the Taxpayer can appeal to the United States Tax Court.
   a. Filing a Lawsuit to the Tax Court. Filing Time: The lawsuit must be filed within 90 days of receiving the Notice of Deficiency. Form of Lawsuit: The lawsuit is filed in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach a copy of the Notice of Deficiency and other supporting documents.
   b. Tax Court Process. Case Examination: The Tax Court will examine the case independently and may request additional evidence from the Taxpayer or the IRS. Hearing: The hearing process in the Tax Court is litigious, but also provides an option for settlement through Settlement Officers. Tax Court Decision: The Tax Court can change, cancel, or affirm the IRS decision. The Tax Court decision is final, unless appealed to the United States Court of Appeals.
3. Settlement in the United States District Court or the United States Court of Federal Claims. In addition to the Tax Court, Taxpayers can also file a lawsuit with the United States District Court or the United States Court of Federal Claims.
   a. Filing a Lawsuit. Time of Filing: A lawsuit must be filed after paying the disputed tax and filing a refund claim that is rejected by the IRS. Form of Lawsuit: The lawsuit is filed in writing and accompanied by clear reasons. Supporting Documents: Taxpayers must attach supporting documents, including a copy of the refund claim and proof of tax payment.
   b. Process in District Court or Court of Federal Claims. Case Examination: The court will examine the case based on the evidence and arguments presented by the Taxpayer and the IRS. Hearing: The hearing process in court is litigious and more formal. Court Decision: The court can change, overturn, or affirm the IRS decision. Court decisions can be appealed to the United States Court of Appeals.
4. Settlement in the United States Court of Appeals. If the Taxpayer or the IRS is dissatisfied with the decision of the Tax Court, District Court, or Court of Federal Claims, they may appeal to the United States Court of Appeals.
   a. Filing an Appeal to the Court of Appeals. Time of Filing: An appeal must be filed within 60 days of the court decision being received. Form of Appeal: An appeal must be filed in writing and accompanied by clear reasons. Supporting Documents: The Taxpayer or IRS must attach a copy of the court decision and other supporting documents.
   b. Process in the Court of Appeals. Case Examination: The Court of Appeals will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Court of Appeals is litigious and involves in-depth legal arguments. Court of Appeals Decision: The Court of Appeals can change, overturn, or affirm the court decision. Court of Appeals decisions can be appealed to the United States Supreme Court.

5. Settlement in the United States Supreme Court. If the Taxpayer or the IRS is dissatisfied with the decision of the Court of Appeals, they may appeal to the United States Supreme Court.
    a. Filing an Appeal to the Supreme Court. Time of Filing: An appeal must be filed through a petition for writ of certiorari. Form of Appeal: An appeal must be filed in writing and accompanied by clear reasons. Supporting Documents: The Taxpayer or IRS must attach a copy of the Court of Appeals decision and other supporting documents.
    b. Process in the Supreme Court. Case Examination: The Supreme Court will examine the case based on evidence and legal arguments. Hearing: The hearing process in the Supreme Court is very formal and involves in-depth legal arguments. Supreme Court Decision: The Supreme Court can change, overturn, or affirm the decision of the Court of Appeals. The Supreme Court decision is final and binding.
6. Alternative Dispute Resolution (ADR). The IRS encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside of court. Some common ADR methods are:
    a. Mediation. Process: Settlement of disputes with the assistance of a neutral mediator. Purpose: Reaching an agreement between the Taxpayer and the IRS.
    b. Offer in Compromise (OIC). Process: Agreement between the Taxpayer and the IRS to settle the tax debt for a lower amount. Purpose: Reaching a fair and realistic settlement.
    c. Fast Track Settlement (FTS). Process: Quick settlement of disputes through negotiations between the Taxpayer and the IRS. Purpose: Reaching an agreement in a short time.
7. Role of Taxpayer Advocate Service (TAS). Taxpayer Advocate Service (TAS) is an independent unit within the IRS tasked with assisting taxpayers who are having difficulty resolving tax issues. Some of TAS's powers are: Providing Assistance: TAS provides assistance to taxpayers who are having administrative issues with the IRS. Making Recommendations: TAS can make recommendations to the IRS to improve services and decisions.

The tax dispute resolution process in the United States involves several stages, starting from internal resolution at the IRS, appeal to the Tax Court, to litigation in federal court. This system is supported by the use of Alternative Dispute Resolution (ADR) and the role of the Taxpayer Advocate Service (TAS). With a comprehensive legal framework, the US has a transparent, fair, and efficient tax dispute resolution system.

### 3.2.4 Overview of the tax dispute resolution process in Russia

The tax dispute resolution process in Russia is regulated by the Tax Code of the Russian Federation and other relevant laws and regulations. The tax dispute resolution system in Russia involves administrative proceedings within the tax authority (Federal Tax Service/FTS) as well as litigation proceedings in court. Here is an overview and detailed explanation of the tax dispute resolution process in Russia:

1. Internal Settlement at the Federal Tax Service (FTS). Before a tax dispute is submitted to court, Taxpayers can resolve the dispute through the administrative process within the FTS. The stages include:
    a. Objection Submission: Submission Time: Taxpayers can submit written objections to the local tax authority within 1 month of receiving the disputed tax decision. Form of

Objection: Objections must be accompanied by reasons and supporting documents. Review Process: The tax authority will review the objection and may request additional information or documents from the Taxpayer. Objection Decision: The tax authority must provide a decision within 1 month of receiving the objection. The decision can be: Accept in full, Accept in part, Reject the objection.

b. Internal Review by FTS: If a Taxpayer is dissatisfied with the decision of the local tax authority, they can request an internal review by the FTS. This process aims to ensure that tax decisions are fair and consistent.

2. Settlement in Court. If the dispute is not resolved at the administrative level, the Taxpayer can appeal to the court. In Russia, tax disputes can be submitted to two types of courts:
   a. Commercial Arbitration Courts: Jurisdiction: Handles tax disputes involving legal entities (companies) and individual entrepreneurs. Filing Time: The lawsuit must be filed within 3 months of the receipt of the tax authority's decision. Trial Process: The court will examine the case based on the evidence and arguments submitted by the Taxpayer and the FTS. Court Decision: The court can change, cancel, or confirm the tax authority's decision. Appeal: If dissatisfied with the arbitration court's decision, an appeal can be filed with the Arbitration Appellate Court.
   b. Courts of General Jurisdiction: Jurisdiction: Handles tax disputes involving individuals (not individual entrepreneurs). Filing Time: The lawsuit must be filed within 3 months of the tax authority's decision being received. Trial Process: The court will examine the case based on evidence and arguments submitted by the Taxpayer and the FTS. Court Decision: The court can change, cancel, or confirm the tax authority's decision. Appeal: If dissatisfied with the decision of the general court, an appeal can be filed to the Appellate Court.
3. Appeal to the Supreme Court of the Russian Federation. If the Taxpayer or the FTS is dissatisfied with the decision of the arbitration court of appeal or the appellate court, they may appeal to the Supreme Court of the Russian Federation.
   a. Appeals: Appeals must be filed within 3 months of the appeals court decision being received. The Supreme Court will examine the case based on evidence and legal arguments.
   b. Supreme Court Proceedings: The Supreme Court is the highest court in Russia and has the authority to interpret tax laws. The Supreme Court process is highly formal and involves in-depth legal arguments.
   c. Supreme Court Decisions: The Supreme Court decision is final and binding on all parties.
4. Alternative Dispute Resolution (ADR). Russia also encourages the use of Alternative Dispute Resolution (ADR) to resolve tax disputes outside the courts. Some commonly used ADR methods are:
   a. Mediation: Process: Settlement of disputes with the assistance of a neutral mediator. Objective: Reaching an agreement between the Taxpayer and the FTS.
   b. Negotiation: Process: Settlement of disputes through direct agreement between the Taxpayer and the FTS. Objective: Reaching a fair and realistic settlement.

The tax dispute resolution process in Russia involves several stages, starting from internal settlement at the FTS, appeal to a commercial arbitration court or a general court, to an appeal to the Supreme Court. This system is supported by the use of Alternative Dispute Resolution (ADR) to resolve disputes quickly and efficiently. Despite challenges such as

lengthy processes and legal complexities, the tax dispute resolution system in Russia is considered transparent, fair and independent.

The following is a comparative table of the tax dispute resolution process in four countries, namely Indonesia, Australia, America and Russia.

| No | Aspect | Indonesia | Australia | United States of America | Russia |
|---|---|---|---|---|---|
| 1 | Objection Stage | Objection to DJP (3 months). | Objection to ATO (60 days). | Objection to the IRS (30 days). | Objection to FTS (1 month). |
| 2 | Appeal Stage | Appeal to the Tax Court. | Appeal to the AAT. | Lawsuit to Tax Court. | Lawsuit to the Court of Arbitration/ General Court. |
| 3 | High Litigation Stage | Review to the Supreme Court. | Appeal to the Federal Court/ High Court. | Appeal to the Court of Appeals/ Supreme Court. | Appeal to the Supreme Court. |
| 4 | Special Institution | Tax Court | AAT | Tax Court | Arbitration Court |
| 5 | Alternative Dispute Resolution (ADR) | Mediation, negotiation. | Mediation, arbitration. | Mediation, Offer in Compromise (OIC). | Mediation, negotiation. |
| 6 | Legal basis | KUP Law, Tax Court Law. | Taxation Administration Act 1953. | Internal Revenue Code (IRC). | Tax Code of the Russian Federation. |
| 7 | Completion Time | Long (1-3 years or more) | Fast (6-12 months with ADR) | Varies (1-2 years) | Long (1-3 years) |
| 8 | Institutional Independence | Quite independent | Very independent | Very independent | Quite independent |

General Comparison: Institutional Independence: In Indonesia and Australia, there are special institutions that handle tax disputes (Tax Court and AAT), while in the United States and Russia, tax disputes are handled by general courts or arbitration. Appeals Process: All countries have an internal appeals process before a dispute goes to court, but the mechanisms and effectiveness vary. Alternative Dispute Resolution (ADR): Australia and the United States are more active in using mediation and ADR to resolve tax disputes informally and quickly, while in Indonesia and Russia, ADR is less popular. Resolution Time: The tax dispute resolution process in Australia and the United States tends to be faster compared to Indonesia and Russia, especially if ADR is used. Indonesia and Russia have tax dispute resolution processes that tend to take a long time and do not utilize alternative dispute resolution (ADR). Australia and the United States are more efficient in resolving tax disputes, especially with the use of mediation and ADR. The independence of tax dispute resolution institutions in Australia and the United States is considered higher than in Indonesia and Russia.

### 3.3. Challenges and shortcomings in the tax dispute resolution system

The tax dispute resolution systems in Indonesia, Australia, the United States (US), and Russia have different challenges and shortcomings, although some issues such as lengthy processes, legal complexity, and legal uncertainty are common in all countries. The following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution systems in the four countries:

#### 3.3.1 Challenges and shortcomings in the tax dispute resolution system in Indonesia

The tax dispute resolution system in Indonesia, although regulated in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law, still faces a number of

challenges and shortcomings.[60] The following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution system in Indonesia.

1. Length of Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution involves several stages, starting from objections, appeals, lawsuits, to judicial review to the Supreme Court (MA). Each stage takes quite a long time. Unclear Time Limits: Although the KUP Law and the Tax Court Law have set time limits for each stage, in practice, these time limits are often not adhered to for various reasons, such as limited resources or case complexity. Impacts: Legal Uncertainty: The length of the dispute resolution process can create legal uncertainty for Taxpayers and the DGT. Administrative Burden: Taxpayers must face a large administrative burden during the dispute resolution process.
2. Complexity of Laws and Regulations. Challenges: Complex Regulations: Tax regulations in Indonesia are very complex and frequently change, making it difficult for Taxpayers to understand and comply with them, Different Interpretations: There are often differences in interpretation between Taxpayers and the DGT regarding tax provisions, which can trigger disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can complicate the dispute resolution process, especially for Taxpayers who do not have adequate legal knowledge, Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.
3. Resource and Capacity Limitations. Challenges: Human Resource Limitations: The Tax Court and DGT often face human resource limitations, such as an insufficient number of judges and staff. Infrastructure Limitations: Inadequate infrastructure, such as less sophisticated information technology systems, can hinder the dispute resolution process. Impact: Length of Process: Resource and infrastructure limitations can slow down the dispute resolution process. Quality of Decisions: Human resource limitations can affect the quality of decisions issued by the Tax Court.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax regulations in Indonesia are frequently changed, which can create legal uncertainty for Taxpayers and the DGT. Inconsistent Decisions: Sometimes there are inconsistencies in Tax Court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to do tax planning. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the DGT.
5. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often considered non-transparent, especially in terms of decision-making by the DGT and the Tax Court. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to distrust from Taxpayers. Impact: Public Distrust: Lack of transparency and accountability can lead to public distrust of the tax dispute resolution system. Increased Disputes: Public distrust can trigger increased tax disputes between Taxpayers and the DGT.
6. Lack of Socialization and Education. Challenges: Lack of Understanding: Many Taxpayers do not understand their tax rights and obligations, so errors often occur in tax reporting and payments. Lack of Socialization: The Directorate General of Taxes often does not

[60] Ajeng Loshita Sari, and Siti Nuryanah, 'Analisis Sengketa Pajak Atas Pembatasan Perbandingan Utang Dan Modal Perusahaan', *Journal Media Riset Akuntansi, Auditing & Informasi*, 23.2 (2023), 203-224 http://dx.doi.org/10.25105/mraai.v23i2.16956

provide enough socialization and education to Taxpayers regarding tax regulations and the dispute resolution process. Impact: Increased Errors: Lack of understanding can lead to increased errors in tax reporting and payments, which can trigger disputes. Increased Disputes: Lack of socialization and education can trigger increased tax disputes between Taxpayers and the Directorate General of Taxes.

7. High Costs. Challenges: High Process Costs: The tax dispute resolution process can be costly, especially if it involves a lawyer or tax consultant. Administrative Costs: Taxpayers face high administrative costs during the dispute resolution process. Impacts: Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium enterprises (SMEs). Injustice: High costs can lead to injustice, especially for Taxpayers who do not have adequate financial resources.
8. Lack of Technology Utilization. Challenges: Lack of Sophistication: Information technology systems used in the tax dispute resolution process are often unsophisticated and not well integrated. Lack of Digitalization: The tax dispute resolution process is still largely done manually, which can hinder efficiency and transparency. Impact: Long Process: Lack of technology utilization can slow down the dispute resolution process. Lack of Transparency: Lack of digitalization can reduce transparency in the dispute resolution process.

The tax dispute resolution system in Indonesia faces various challenges and shortcomings, such as the length of the process, legal complexity, limited resources, legal uncertainty, lack of transparency, and high costs. To overcome these challenges, comprehensive improvement efforts are needed, including increasing capacity, simplifying regulations, increasing transparency, socialization, utilizing technology, and reducing costs. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the Directorate General of Taxes (DJP).

### 3.3.2 Challenges and shortcomings in the Australian tax dispute resolution system

The tax dispute resolution system in Australia, although considered relatively advanced and structured, still faces a number of challenges and shortcomings.[61] The following is a detailed explanation of the challenges and shortcomings in the tax dispute resolution system in Australia:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in Australia involves several stages, starting from objections at the ATO (Australian Taxation Office), appeals to the Administrative Appeals Tribunal (AAT), to litigation in the Federal Court or High Court. Each stage takes a long time. Strict Time Limits: Taxpayers must comply with strict time limits to file objections or appeals, which can be difficult for those who do not have adequate legal knowledge. Impacts: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for Taxpayers and the ATO. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.[62]

[61] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

[62] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175.1 (2018), 1-7 https://doi.org/10.1088/1755-1315/175/1/012203

2. Legal and Regulatory Complexity. Challenges: Complex Regulations: Australian tax laws are complex and subject to frequent changes, making it difficult for taxpayers to understand and comply with them. Different Interpretations: Taxpayers often have different interpretations of tax provisions and the ATO, which can lead to disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can make the dispute resolution process difficult, especially for taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.
3. High Costs. Challenges: High Litigation Costs: Litigation in court, especially in the Federal Court and High Court, can be very expensive, including attorney fees and administrative costs. Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax laws in Australia are subject to frequent changes, which can create legal uncertainty for Taxpayers and the ATO. Inconsistent Decisions: There are sometimes inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can lead to increased tax disputes between Taxpayers and the ATO.
5. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers take advantage of it due to a lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the ATO to provide adequate ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.
6. Resource and Capacity Constraints. Challenges: Human Resource Constraints: The AAT and courts often face human resource constraints, such as insufficient judges and staff. Infrastructure Constraints: Inadequate infrastructure, such as inadequate IT systems, can hinder the dispute resolution process. Impacts: Long Process: Resource and infrastructure constraints can slow down the dispute resolution process. Decision Quality: Human resource constraints can affect the quality of decisions made by the AAT and courts.
7. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often perceived as being non-transparent, particularly in terms of decision-making by the ATO and courts. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to taxpayer distrust. Impacts: Public Distrust: A lack of transparency and accountability can lead to public distrust of the tax dispute resolution system. Increased Disputes: Public distrust could lead to increased tax disputes between Taxpayers and the ATO.

The Australian tax dispute resolution system faces a number of challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency,

socialization, use of technology and cost reduction. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly and transparently, providing legal certainty for taxpayers and the ATO.

### 3.3.3 Challenges and shortcomings in the tax dispute resolution system in America

The tax dispute resolution system in the United States (US) is considered one of the most advanced in the world, but it still faces a number of challenges and shortcomings.[63] Here is a detailed explanation of the challenges and shortcomings of the US tax dispute resolution system:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in the US involves several stages, starting from objections to the IRS (Internal Revenue Service), appeals to the IRS Appeals Office, to litigation in the Tax Court, District Court, or Court of Federal Claims. Each stage takes a long time. Strict Deadlines: Taxpayers must comply with strict deadlines to file objections or appeals, which can be difficult for those who do not have adequate legal knowledge. Impact: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for Taxpayers and the IRS. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.
2. Legal and Regulatory Complexity. Challenges: Complex Regulations: US tax laws are complex and subject to frequent changes, making it difficult for taxpayers to understand and comply with them. Different Interpretations: Taxpayers and the IRS often have different interpretations of tax provisions, which can lead to disputes. Impacts: Difficulty in Resolving Disputes: The complexity of laws and regulations can make the dispute resolution process difficult, especially for taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can lead to legal uncertainty and prolong the dispute resolution process.
3. High Costs. Challenges: High Costs of Litigation: Litigation in court, especially in Tax Court, District Court, or the Court of Federal Claims, can be very expensive, including attorney fees and administrative costs. Financial Burden: High costs can be a significant financial burden for taxpayers, especially small and medium-sized businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax laws in the US are subject to frequent changes, which can create legal uncertainty for Taxpayers and the IRS. Inconsistent Rulings: Sometimes there are inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulty in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the IRS.
5. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers take advantage of it due to lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the IRS to provide adequate ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the

[63] Melinda Jone, 'A dispute systems design evaluation of the tax dispute resolution system in the United States and possible recommendations from Australia', *eJournal of Tax Research, 16.1 (2018), 56-86*
https://www.unsw.edu.au/business/sites/default/files/documents/ejtr-16-1-4-a-dispute-systems-design-jone.pdf

dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.

6. Resource and Capacity Constraints. Challenges: Human Resource Constraints: The IRS Appeals Office and courts often face human resource constraints, such as insufficient judges and staff. Infrastructure Constraints: Inadequate infrastructure, such as inadequate information technology systems, can hinder the dispute resolution process. Impacts: Length of Process: Resource and infrastructure constraints can slow down the dispute resolution process. Quality of Decisions: Human resource constraints can affect the quality of decisions issued by the IRS Appeals Office and courts.
7. Lack of Transparency and Accountability. Challenges: Opaque Process: The tax dispute resolution process is often considered opaque, especially when it comes to decision-making by the IRS and courts. Lack of Accountability: There is sometimes a lack of accountability in the dispute resolution process, which can lead to taxpayer distrust. Impact: Public Distrust: Lack of transparency and accountability can lead to public distrust in the tax dispute resolution system. Increased Disputes: Public distrust can lead to increased tax disputes between Taxpayers and the IRS.

The tax dispute resolution system in the United States faces various challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including increasing capacity, simplifying regulations, increasing transparency, socialization, utilizing technology, and reducing costs. Thus, it is hoped that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the IRS.

### 3.3.4 Challenges faced by taxpayers in resolving tax disputes in Russia

Taxpayers in Russia face a number of challenges in resolving tax disputes, despite the fairly comprehensive tax dispute resolution system in Russia. The following are the main challenges faced by taxpayers in Russia in resolving tax disputes:

1. Lengthy Dispute Resolution Process. Challenges: Complicated Process: Tax dispute resolution in Russia involves several stages, from objections to the Federal Tax Service (FTS), appeals to commercial arbitration courts or general courts, to appeals to the Supreme Court. Each stage takes a considerable amount of time. Unclear Time Limits: Although there are time limits for filing objections and appeals, in practice, these time limits are often not adhered to for various reasons, such as resource constraints or the complexity of the case. Impacts: Legal Uncertainty: The lengthy dispute resolution process can create legal uncertainty for taxpayers. Administrative Burden: Taxpayers have to face a large administrative burden during the dispute resolution process.
2. Complexity of Laws and Regulations. Challenges: Complicated Regulations: Tax regulations in Russia are very complex and change frequently, making it difficult for Taxpayers to understand and comply with them. Different Interpretations: There are often differences in interpretation between Taxpayers and the FTS regarding tax provisions, which can trigger disputes. Impacts: Difficulties in Dispute Resolution: The complexity of laws and regulations can complicate the dispute resolution process, especially for Taxpayers who do not have adequate legal knowledge. Legal Uncertainty: Differences in interpretation can create legal uncertainty and prolong the dispute resolution process.

3. High Costs. Challenges: High Process Costs: The tax dispute resolution process, especially involving tax lawyers or consultants, can be costly. Administrative Costs: Taxpayers face high administrative costs during the dispute resolution process. Impacts: Financial Burden: High costs can be a major financial burden for Taxpayers, especially for small and medium businesses (SMEs). Injustice: High fees can create injustice, especially for Taxpayers who do not have sufficient financial resources.
4. Legal Uncertainty. Challenges: Frequent Regulatory Changes: Tax regulations in Russia are subject to frequent changes, which can create legal uncertainty for Taxpayers. Inconsistent Rulings: Sometimes there are inconsistencies in court decisions, which can create confusion and legal uncertainty. Impacts: Difficulties in Tax Planning: Legal uncertainty can make it difficult for Taxpayers to plan their taxes. Increased Disputes: Legal uncertainty can trigger increased tax disputes between Taxpayers and the FTS.
5. Lack of Transparency and Accountability. Challenges: Non-Transparent Process: The tax dispute resolution process is often considered non-transparent, especially in terms of decision-making by the FTS and the courts. Lack of Accountability: Sometimes there is a lack of accountability in the dispute resolution process, which can create distrust among Taxpayers. Impacts: Public Distrust: Lack of transparency and accountability can create public distrust in the tax dispute resolution system. Increased Disputes: Public distrust can trigger increased tax disputes between Taxpayers and the FTS.
6. Limited Access to Alternative Dispute Resolution (ADR). Challenges: Lack of Socialization: Although ADR (Alternative Dispute Resolution) is available, not all Taxpayers utilize it due to lack of socialization and understanding of the benefits of ADR. Resource Limitations: Limited resources and capacity of the FTS in providing adequate ADR services. Impact: Lack of ADR Utilization: Many Taxpayers do not utilize ADR, making the dispute resolution process longer and more expensive. Injustice: Lack of access to ADR can create injustice for Taxpayers who do not have the resources for litigation.
7. Resource and Capacity Limitations. Challenges: Human Resource Limitations: Commercial arbitration courts and general courts often face human resource limitations, such as insufficient judges and staff. Infrastructure Limitations: Inadequate infrastructure, such as less sophisticated information technology systems, can hinder the dispute resolution process. Impact: Length of Process: Limited resources and infrastructure can slow down the dispute resolution process. Quality of Decisions: Limited human resources can affect the quality of decisions issued by the court.

Taxpayers in Russia face various challenges in resolving tax disputes, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. To overcome these challenges, comprehensive improvement efforts are needed, including capacity building, regulatory simplification, increased transparency, socialization, utilization of technology, and cost reduction. Thus, it is expected that the tax dispute resolution system can run more efficiently, fairly, and transparently, providing legal certainty for Taxpayers and the FTS.

The following is a comparative table of challenges and shortcomings faced by taxpayers in resolving tax disputes in four countries, namely Indonesia, Australia, America and Russia.

| No | Aspect | Indonesia | Australia | United States (US) | Russia |
|---|---|---|---|---|---|
| 1 | Process Length | A long and complicated process. | Lengthy appeals and litigation processes. | Lengthy appeals and litigation processes. | A long and complicated process. |
| 2 | Legal | Regulations are | Regulations are | Regulations are | Regulations are |

| | | | | | |
|---|---|---|---|---|---|
| | Complexity | complex and change frequently. | complex and change frequently. | complex and change frequently. | complex and change frequently. |
| 3 | High Costs | High costs of processing and litigation. | Litigation costs are high. | Litigation costs are high. | High costs of processing and litigation. |
| 4 | Legal Uncertainty | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. | Regulatory changes and decisions are inconsistent. |
| 5 | Lack of Transparency | The process is often not transparent. | The process is relatively transparent. | The process is relatively transparent. | The process is often not transparent. |
| 6 | Limitations of ADR | ADR is underutilized. | ADR is underutilized. | ADR is underutilized. | ADR is underutilized. |
| 7 | Limited Resources | Limited human resources and infrastructure. | Limited human resources and infrastructure. | Limited human resources and infrastructure. | Limited human resources and infrastructure. |

The tax dispute resolution systems in Indonesia, Australia, the United States, and Russia face similar challenges and shortcomings, such as lengthy processes, legal complexity, high costs, legal uncertainty, and lack of transparency. However, there are differences in the level of access to ADR and transparency of the process. To overcome these challenges, comprehensive improvement efforts are needed, including simplifying regulations, increasing transparency, socializing ADR, and utilizing technology. In this way, the tax dispute resolution system can run more efficiently, fairly, and transparently in all countries.

## 4.Conclusion

Indonesia and the United States have more structured systems with specialized institutions for tax disputes (the Tax Court and the United States Tax Court), while Australia and Russia rely on general or administrative justice systems. Australia and the United States are more advanced in the use of Alternative Dispute Resolution (ADR) such as mediation and arbitration, which can reduce the burden on the courts and speed up resolution. Russia has a simpler but less specialized system for handling tax disputes. Indonesia has a clear legal framework for tax disputes, but needs to improve the efficiency and use of ADR methods. Indonesia can learn from Australia and the United States in terms of using Alternative Dispute Resolution (ADR) such as mediation and arbitration to expedite dispute resolution. Australia and the United States have shown that administrative efficiency and good ADR programs can reduce the burden on the courts. Russia can consider establishing a special tax court and increasing the use of mediation to improve the efficiency of dispute resolution. Indonesia also needs to improve transparency, human resource capacity, and taxpayer education to build a fairer and more efficient system. By learning from each other's best practices, tax dispute resolution systems around the world can become more effective, fair, and efficient.

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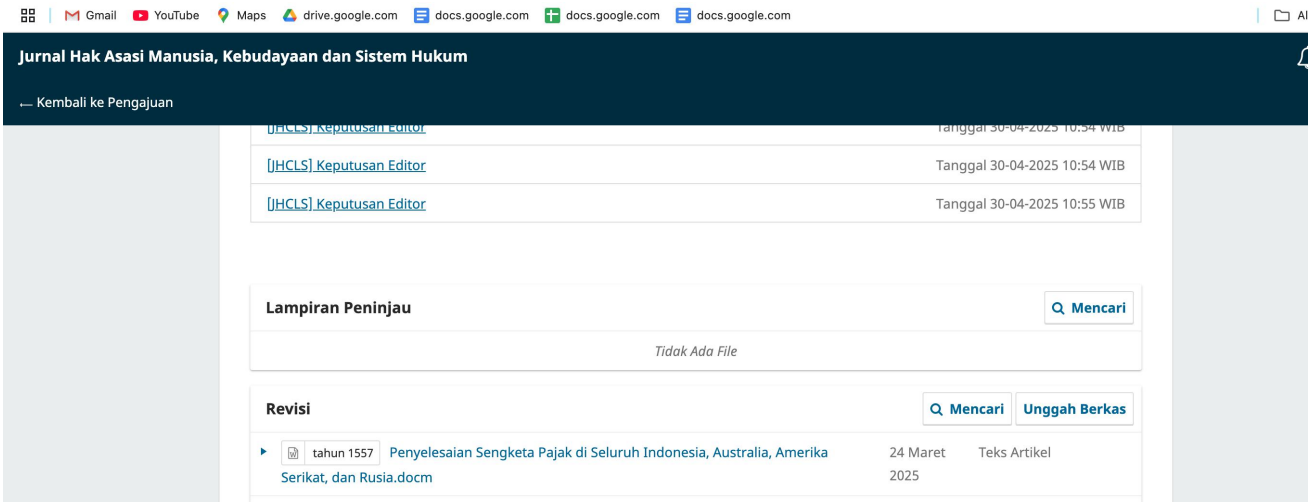
**Weaknesses and Challenges in Tax Dispute Resolution in Indonesia: A Comparative Study of the United States, Russia, and Australia**



# Weaknesses and Challenges in Tax Dispute Resolution in Indonesia: A Comparative Study of the United States, Russia, and Australia

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ABSTRACT (10PT)

The legal framework governing the settlement of tax disputes in Indonesia is currently limited and inconsistent in its enforcement, resulting in inefficiency in its settlement. This inefficiency can be seen from the complicated and lengthy settlement mechanism. This situation is caused by the uncertain stages of tax objections. On the other hand, the legal norms governing the settlement of tax disputes through the tax court at the appellate level are inconsistent with the law on judicial power. This study aims to examine the various limitations and inconsistencies of the legal framework and propose solutions that can realize legal certainty. This study uses normative legal methodology using a comparative analysis approach, with a special focus on the United States, Australia, Russia as reference models. This study uses secondary data sources analyzed using the inductive method. The findings highlight three main aspects: First, there is disharmony in tax dispute resolution regulations in Indonesia related to the efficiency of case resolution. Second, on the contrary, the United States, Australia, and Russia provide Alternative Dispute Resolution (ADR) such as mediation and arbitration to accelerate settlement, and show that administrative efficiency. Third, this study presents policy recommendations to harmonize tax regulations in Indonesia related to the efficiency of case resolution, ensuring a coherent legal framework. The findings of this study suggest that the Indonesian government should consider these recommendations to improve the policy framework in tax dispute resolution, especially in the efficiency of case resolution, thus ensuring a balance between taxpayers and tax authorities.

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## 1. Introduction

The existence of taxes today cannot be separated from the series of history, (Adi et al. 2023) Tax is one of the sources of state revenue in financing government and development (Erwiningsih 2022) . One of the largest contributors to the realization of tax revenue for the country comes from the Value Added Tax component (Alfath Annisaa and Nuryanah 2023).

The success of a country in collecting taxes from its citizens will certainly benefit the economic stability of the country concerned (Aji et al. 2022) . It is this tax sector that contributes to reducing the volume and ratio of the budget deficit (Sukmawati and Bukhori 2022).

The role of taxes is becoming increasingly dominant (Amir, Tangkau, and Miran 2021), This can be seen from the increasing proportion of tax revenue in the APBN (Abduh 2019).

Compared to other revenue sectors such as oil and gas (oil and gas) and non-oil and gas (Basri and Muhibbin 2022) . However, in an effort to achieve tax revenue targets, tax decisions issued by authorized tax officials are often not always well received by the taxpayers concerned (Aulia and Marinda Machdar 2023) . The obligation for taxpayers to pay taxes to the state does not rule out the possibility that it will be felt as a burden for some taxpayers (Ardiansyah and Wahyudin 2023).

Tax dispute is a term used in the taxation system in Indonesia to describe the existence of a conflict or difference of opinion in tax matters between Taxpayers (WP) and the Directorate General of Taxes (DJP) as the tax authority (Wahyudi, Ludigdo, and Djamhuri 2017) . Tax disputes often arise, such as due to erroneous points of view during the understanding of tax regulations, dissimilarity of accounting and financial systems, and tax regulations with countries clashing with each other, so that there is dissimilarity when determining the nominal tax for taxpayers (A.A Gede Diotama, Budiartha, and Widiati 2022).

Providing legal certainty to taxpayers and parties involved in tax disputes is one of the most important roles of the Tax Court (Anggraeni 2023). In accordance with the mandate of the Tax Court Law, namely the Republic of Indonesia Law Number 14 of 2002 concerning tax courts dated April 12, 2002 (Candra, Albram, and Hasan 2019). So in 2002 the Tax Court was formed as an effort to create an independent judiciary in resolving tax disputes (Situmeang 2022).

The tax court is the first and/or final level in examining and deciding tax disputes (Purba and Rahadian 2019). In the event that the Tax Court's decision cannot be sued to the General Court, State Administrative Court, or other judicial bodies, except for decisions in the form of "Not acceptable" which concern authority/competence, a judicial

review can be submitted to the Supreme Court (Ratna Anggreini 2021). The position of the Tax Court in Indonesia involves two institutions, namely the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance takes care of the organizational, administrative, and financial aspects, as regulated in Law No. 14 of 2002 concerning the Tax Court (Gotama, Widiati, and Seputra 2020) . The existence of this dualism has caused many parties to doubt the independence and independence of the Tax Court.

In Article 25 Paragraph (1) of the KUP Law it is stated that tax objections are a legal remedy provided by law for taxpayers who feel they have been disadvantaged (Hamdani, Haskar, and Farda 2023). The objection legal process is a first-level judicial process for tax disputes, although it is actually only a pseudo-trial. It is called a pseudo-trial because the tax objection process is still carried out and decided by the Objection Review Team which is also hierarchically under the DJP organizational structure (Wahyudi, Ludigdo, and Djamhuri 2017).

The issue of independence is indeed a dilemma for Objection Reviewers considering that the position of Objection Reviewers is still under the auspices of the Directorate General of Taxes (S. Supriyadi, Setiawan, and Bintang 2019). The legal process of objections has become a mere legal process of "passing through" to fulfill formal requirements before an appeal or lawsuit can be submitted to the Tax Court (Wahyudi 2022).

This settlement requires a process and time because what is being disputed in the dispute is the amount of tax which includes the basis for calculation, the disputed tax object, and the method of calculating tax debt, such things cause multiple interpretations for both taxpayers and the government. So that it causes the impact of dispute resolution to drag on and take a long time. In Indonesia, each dispute case takes an average of 36 months to resolve (Saragi 2024) . This situation is based on the provisions governing tax objections that are uncertain, tax objections can be submitted by taxpayers, but if within a period of 12 months, the government does not provide an answer, then the objection is considered accepted, such provisions reflect ambiguity and even create legal uncertainty.

Tax objections in their submission have risks, as explained in Article 29 paragraph (9), where in the event that the Taxpayer's objection is rejected or partially granted, the Taxpayer will be subject to administrative sanctions in the form of a fine of 50% of the amount of tax based on the tax objection decision, minus the tax that has been paid before submitting the objection (Suoth 2018b).

The principle of justice in the judicial system in Indonesia is regulated in Law Number 48 of 2009 concerning Judicial Power (Judicial Power Law), specifically in Article 2 paragraph (4) namely that: "Trial is carried out simply, quickly, and at low cost" The

meaning or definition of "Fast" according to the Judicial Power Law cannot be found either in the body or the Explanation of Article 4 paragraph (2) a quo. However, the meaning of "Fast" can certainly be interpreted that the implementation of justice should not take a long time, be long-winded, or even be deliberately delayed in its completion, so as to delay the creation of justice for those seeking justice. According to Sudikno Mertokusumo, the meaning of "Fast" is that the implementation of justice "does not drag on in the process of its completion" (Mertokusumo, 2003). That the implementation of justice should not take a long time and be protracted also refers to one of the main principles in justice, namely that "delayed justice is injustice" (justice delayed is justice denied) (M. W. Supriyadi 2024).

In order to elaborate on efforts to resolve tax disputes in tax courts in Indonesia, another study (Erwiningsih, 2022) concluded that the tax court is an administrative institution that is specific in the field of taxation. However, there are judicial constraints in the process of resolving tax disputes, such as limited ordinary legal remedies and only extraordinary legal remedies, such as Judicial Review to the Supreme Court, which are available to the parties in dispute in the Tax Court. Cassation is not available, there are only Lawsuits, Appeals, and Judicial Review to the Supreme Court as legal remedies (Erwiningsih 2022) In addition, the tax court system in Indonesia does not recognize first-level courts, but rather direct appeals. Another obstacle in the process of resolving tax disputes at the Indonesian Tax Court is the location of the Tax Court which is only in the State Capital and the existence of administrative sanctions in the form of a fine of 100% (one hundred percent) if the taxpayer's appeal is partially granted or rejected, this is very burdensome for taxpayers (Gotama, Widiati, and Seputra 2020).

Based on other previous studies, (Khoirul Hidayah 2018) in his research found social problems related to the increasing number of unresolved tax collections at the Tax Court. In this study, mediation is attempted as a form of Alternative Dispute Resolution in resolving tax settlements in Indonesia. Mediation through administrative legal efforts is expected to provide fast and polite dispute resolution services. Mediation is also expected to increase voluntary taxpayer compliance and improve better relations between taxpayers and the Directorate General of Taxes after the war. He also said that mediation in resolving tax settlements has not been regulated in Indonesia, so in order to construct mediation regulations, it is necessary to amend the General Provisions and Tax Procedures Law (Muhamad, Sinaulan, and Khalimi 2023).

To help achieve the goal of resolving tax disputes efficiently and fairly, it is necessary for tax authorities to manage and resolve disputes early, expeditiously and in a cost-effective manner. Thus, to reduce the escalation of conflicts and improve their relationship with taxpayers, there is a trend by international tax authorities in using various initiatives such as alternative dispute resolution (ADR) processes, to resolve tax disputes without

litigation. For the purpose of this article, ADR can be defined as 'a generic term for processes, other than judicial determination, in which an impartial person assists disputants to resolve their issues.

The fundamental nature of the ADR process is that it allows for earlier resolution of tax disputes, or their avoidance altogether, thereby providing both parties with greater certainty and the ability to channel limited resources into more productive activities.8 In addition, the move towards ADR processes in tax dispute resolution is generally in line with tax authorities' 'shifting from a culture of "command and control" to a culture designed to build trust, support and respect in the community' which in turn encourages voluntary compliance.

In addition, the implementation of the ADR process by tax authorities is also in line with the concept of dispute systems design (DSD), which is a deliberate effort to identify and improve the way organizations deal with conflicts by organizing dispute resolution processes in a clear and strategic manner. Thus, the use of ADR to improve the efficiency and effectiveness of tax administration and provide 'improved taxpayer compliance by facilitating the resolution of disputes with tax authorities or even alleviating concerns is consistent with the basic purpose of DSD in reducing the costs of handling disputes and producing more satisfactory and durable resolutions.

Taking cues from other countries that have implemented ADR, the Internal Revenue Service (IRS) in the United States, the Australian Taxation Office (ATO) in Australia, and the Federalnaya nalogovaya sluzhba (FNS) in Russia are three revenue authorities that have incorporated various ADR processes into their tax dispute resolution systems.

The US is considered a relatively mature jurisdiction when it comes to the use of ADR in tax dispute resolution.13 In 1990, Congress passed the Administrative Dispute Resolution Act of 199014 which mandated that all federal government agencies begin implementing ADR into their administrative dispute processes to reduce the time and costs associated with dispute resolution.

In 1998, the Internal Revenue Service Restructuring and Reform Act of 1998 enacted Internal Revenue Code Section 7123. This section directed the IRS to implement procedures to allow for broader use of early appeal programs and to establish procedures to allow for ADR processes such as mediation and arbitration.

Pursuant to this mandate, the IRS established five primary post-filing ADR programs: Fast Track Settlement (FTS); Fast Track Mediation (FTM); Early Referral; Post-Appeal Mediation (PAM); and Arbitration. Since then, the breadth and scope of ADR programs offered by the IRS have changed and expanded over time.

## 2. Research Method

This research is normative legal research (Jaelani, Kusumaningtyas, and Orsantinutsakul 2022) . By using legal, conceptual, comparative legal and Systematic Literature Review approaches (Wiwoho et al. 2024) . Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as previously published journals, with a focus on the theory discussed within a certain scope (F. Saputra and Ali 2022) . The regulatory-statutory approach in this study examines efforts to resolve tax settlements in Indonesia as regulated in the Tax Administration Law and the Tax Court Law. The conceptual approach examines the concept of tax settlement using the cooperative paradigm recommended by the OECD. While the comparative approach summarizes the tax settlement models used by the United States, Australia, and Russia (Setiawan et al. 2024) . A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approache (Jaelani and Hayat 2022) . This research uses the document study method as the chosen data collection strategy(R. Saputra, Setiodjati, and Barkhuizen 2023) . The data used is secondary data based on literature studies (Jaelani, Nuryanto, et al. 2023) . primary legal materials, namely laws and legal theories(Jaelani, Hayat, et al. 2023). Secondary legal materials consist of books, articles and research findings (Jaelani and Luthviati 2021) . As well as studying further primary legal materials at a theoretical level and how they are applied relevantly (Jaelani, Luthviati, et al. 2023).

Legal sources in resolving tax disputes in Indonesia include various laws and regulations, legal principles, and international practices (Rukmono, Suwadi, and Islam 2024) . In the discussion, the researcher first describes the management and regulation of tax settlements using the cooperative paradigm in the United States, Australia, and Russia. Then, the researcher conducts identification and analysis using qualitative legal methods. To find related regulations, the researcher uses the legal fiction method.

## 3. Results and Discussion

### 3.1. Tax Dispute Resolution System In Indonesia

If the tax dispute is seen regarding its specifications, it can be seen that the disputing parties are the government as the tax authority and the people as taxpayers or tax payers. In this case, the tax authority is positioned as the respondent/defendant or the party receiving the objection. While on the other hand, it is the people as taxpayers or tax payers who file lawsuits, objections or appeals. The object of the dispute is the government's decision in the tax sector which is directed at the people as taxpayers which is considered detrimental to the taxpayer concerned. The dispute is triggered by the existence of a state administrative decision in the tax sector which is questioned by the taxpayer because he feels disadvantaged by the decision (Ispriyarso 2018).

The practice of resolving tax disputes in the Indonesian Tax Court currently still uses or is based on Law Number 14 of 2002, although there has been an Update on the position of the Tax Court. Based on Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN and Law Number 28 of 2007 concerning General Provisions and Tax Procedures, the position of the Tax Court is a Special Court within the State Administrative Court. The change in the position of the Tax Court certainly results in changes to the litigation procedures in the Tax Court (its Procedural Law). In reality, until now there has been no follow-up, so that the resolution of tax disputes is still based on Law Number 14 of 2002 (Ispriyarso 2018).

Settlement of tax disputes through the Tax Court is regulated in Chapter IV, Articles 34 to 42 of Law Number 14 of 2002, including provisions on the legal remedy of Judicial Review to the Supreme Court. Against a decision, a lawsuit or appeal letter is submitted. The current Tax Court is historically an improvement on the previous Tax Court institution, namely the Tax Dispute Resolution Agency (BPSP). To overcome the shortcomings and weaknesses of the BPSP, especially the implementation of the judicial power system with tiered examinations to the Supreme Court, the Tax Court applies the legal remedy of Judicial Review to the Supreme Court (Suoth 2018a).

The duties and authorities of the Tax Court in resolving tax disputes, namely examining and deciding disputes over objection decisions, unless otherwise determined by applicable laws and regulations. The Tax Court in a lawsuit examines and decides disputes over the implementation of Tax collection on Correction Decisions or other Decisions, as referred to in Article 23 paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures which have been amended several times, most recently by Law Number 16 of 2000 and applicable tax laws and regulations.

Legal basis for the appeal and lawsuit procedures at the Tax Court in Indonesia. These basis are mainly found in several laws related to tax regulations in Indonesia: 1. Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP): This law regulates various aspects of taxation, including the procedures for appeals and lawsuits related to tax disputes. The articles in this law describe the technical procedures, including the time, required documents, and procedures for filing an appeal or lawsuit. 2. Law Number 14 of 2002 concerning the Tax Court: This law regulates the establishment of the Tax Court as a special judicial institution that handles tax disputes. There are provisions regarding technical procedures, including appeals and lawsuits, at the Tax Court. 3. Government Regulation Number 45 of 2014 concerning Procedures for Settlement of Tax Disputes: This Government Regulation provides more specific guidance related to technical procedures in resolving tax disputes, including appeals and lawsuits filed with the Tax Court. 4. Regulation of the Director General of Taxes: In addition to the law, there

are also technical regulations issued by the Directorate General of Taxes that regulate administrative procedures related to the settlement of tax disputes before entering the realm of the Tax Court. The legal basis above provides a framework that regulates in detail the technical procedures for filing appeals and lawsuits related to tax disputes in the Tax Court. Each of these regulations provides guidelines that regulate aspects of time, required documents, and procedures for filing appeals or lawsuits to resolve tax disputes in the legal realm (Muhamad, Sinaulan, and Khalimi 2023).

The position of the Tax Court in Indonesia involves two institutions, namely the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance takes care of the organizational, administrative, and financial aspects, as regulated in Law No. 14 of 2002 concerning the Tax Court (Aulia and Marinda Machdar 2023).

Settlement of tax disputes in Indonesia involves several channels and institutions, namely the administrative objection process, to the Tax Court, and lawsuits to the Tax Court, and judicial review to the Supreme Court. Settlement of tax disputes recognizes two mechanisms, namely dispute resolution through administrative efforts, namely through the objection institution and through the judicial institution, namely the Tax Court(Sa'adah 2019) . Regulations related to institutions that handle tax dispute resolution are clearly explained in formal regulations in tax law.

Administrative efforts are often referred to as impure administrative justice. Impure administrative justice is all justice that does not fully meet the requirements of pure administrative justice, for example because there is no real dispute, or because the person conducting the justice is included in or is part of one of the parties. One form of administrative effort used in resolving disputes is an objection effort. An objection is an administrative effort submitted by a taxpayer to the Director General of Taxes regarding a tax assessment letter and evidence of third party deductions/collections, based on the KUP Law (See Article 25 paragraph (1) and its Explanation of the KUP Law).

If a taxpayer has a dispute related to a Tax Assessment Letter, such as a Tax Underpayment Assessment Letter (SKPKB), Additional Tax Underpayment Assessment Letter (SKPKBT), Tax Overpayment Assessment Letter (SKPLB), Nil Tax Assessment Letter (SKPN), or a dispute related to withholding and collection by a third party, they can resolve this tax dispute through an objection. In filing an objection, the taxpayer must submit an objection letter that meets certain requirements to the official authorized to issue the Tax Assessment Letter. This objection letter can include objections to the Tax Underpayment Assessment Letter, Additional Tax Underpayment Assessment Letter, Tax Overpayment Assessment Letter, Nil Tax Assessment Letter, as well as withholding or collection by a third party in accordance with the provisions of tax laws and regulations.

The objection letter must be submitted in writing in Indonesian, including the amount of tax owed or the amount of tax withheld or collected, as well as the reasons supporting the objection. Taxpayers have the right to submit an objection letter to the Director General of Taxes (DGT). In accordance with Article 2 Paragraph (3) of the Regulation of the Minister of Finance Number 9/PMK.03/2013 concerning Procedures for Submitting and Resolving Objections, which was last amended by Regulation of the Minister of Finance Number 202/PMK.03/2015, it is stated that taxpayers can only submit objections to the material or content of the tax assessment letter. This material or content involves a number of aspects, including the amount of loss in accordance with tax laws and regulations, the amount of tax to be paid, and material or content related to tax deductions or collections by third parties. The same thing also applies to the types of regional taxes regulated in Law No. 18 of 1997 concerning Regional Taxes and Regional Retributions, which has been amended by Law No. 34 of 2000.

Taxpayers have the right to file objections to the Regional Head or appointed official who has issued the regional tax assessment. Types of regional tax assessment letters that can be the object of objections include Regional Tax Assessment Letters, Regional Tax Underpayment Assessment Letters, Additional Regional Tax Underpayment Assessment Letters, Regional Tax Overpayment Assessment Letters, Regional Tax Nil Assessment Letters, as well as deductions or collections by third parties in accordance with applicable regional tax laws and regulations.

The deadline for submitting an objection letter is set at three months from the date of issuance of the Tax Assessment Letter or from the date of tax deduction or collection by a third party permitted by the provisions of tax laws and regulations to deduct or collect tax. This time limit gives taxpayers enough time to prepare an objection letter and the reasons for it. In addition, this three-month time limit can still be extended if the taxpayer can prove that the delay in submitting the objection letter was caused by circumstances beyond the taxpayer's control (force majeure).

After the objection letter is submitted to the authorized official, the taxpayer is entitled to receive proof of receipt of the objection letter. This proof of receipt, which is given by the authorized official directly or through the post office, serves as a sign that the objection letter has been received. In addition, this proof can also be used by the taxpayer to monitor the twelve-month deadline, in which the Director General of Taxes (for Central Tax) or the Head of Region (for Regional Tax) must provide a decision on the objection submitted by the taxpayer. If within the twelve months no decision is given by the authorized official, then the taxpayer's objection is considered accepted.

It is important to note that the settlement of tax disputes through objection efforts has different characteristics from dispute resolution in court. The decision on the objection letter is taken by a doleansi judge, namely a tax official who has the authority to decide on

the objection letter, without a trial process as occurs in the tax court (Rochmat, Soemitro. 1989).

In addition to being resolved through an impure institution, namely through an objection institution, tax dispute resolution can also be resolved by a pure tax court (judicial). Rochmat Soemitro explained that what is meant by pure administrative justice is administrative justice that meets the requirements that resemble justice carried out by a court. The characteristic of a pure administrative justice is the existence of a triangular relationship between the parties and the body or official who adjudicates. The body or official who adjudicates is a specific and separate body or official."Certain" This means that the agency or official is determined by law or other regulations of the same level. "Separated" meaning that the agency or official conducting the trial is not one of the parties or included in one of the parties or under the influence of one of the parties, so that the agency or official trying the case is above the parties. There are two legal remedies in resolving tax disputes that can be taken through the Tax Court, namely appeals and lawsuits.

According to research conducted by Purba, 2018, if a taxpayer is dissatisfied with the objection decision that has been issued, he has the right to appeal to the tax court. An appeal is a legal step that can be taken by a taxpayer or tax guarantor against a decision that can be appealed in accordance with applicable tax laws and regulations (Wahyudi 2022).

The requirements for filing an appeal are regulated in Article 35 and Article 36 of Law Number 14 of 2002, namely that the submission must use an Appeal Letter in Indonesian, be made within 3 months from the date of receipt of the Decision being appealed, and must be accompanied by clear reasons and include the date of receipt of the decision being appealed, and attach a copy of the decision being appealed. The amount of tax that has not been paid at the time of filing an appeal, as regulated in Article 27 paragraph (5c) of Law Number 28 of 2007, is no longer considered tax payable until the Appeal Decision is issued, so that the requirement to pay 50% of the amount of tax that has not been paid is no longer required by the taxpayer (Purba and Rahadian 2019).

In addition to using the appeal legal remedy, taxpayers also have another option in resolving disputes through the Tax Court, namely by filing a lawsuit. In accordance with Article 1 Paragraph (7) of Law Number 14 of 2002, a lawsuit is a legal action that can be taken by taxpayers against the implementation of tax collection or against decisions that meet the requirements for filing a lawsuit in accordance with applicable laws and regulations. The lawsuit must be submitted in writing in Indonesian and can only be submitted to the Tax Court. The lawsuit must include clear reasons, the date of receipt of the collection implementation or the decision being contested, and a copy of the document that is the object of the lawsuit must be attached (Sa'adah 2019).

Filing a lawsuit has two different time periods, namely the time period for filing a lawsuit against the implementation of tax collection, and the time period for filing a lawsuit against a decision that meets the requirements to be filed for a lawsuit. The time period for filing a lawsuit against the implementation of tax collection is 14 days from the date of the collection implementation. Meanwhile, the time period for filing a lawsuit against a decision that can be challenged is 30 days from the date of receipt of the decision that meets the requirements to be filed for a lawsuit. The Tax Court's decision is a final decision, and there is no option to file a cassation appeal in the process of resolving this dispute.

However, if taxpayers are still dissatisfied with the Tax Court's decision, they have the opportunity to make extraordinary legal efforts, namely a Judicial Review, which is regulated in Articles 89-93 of Law Number 14 of 2002. A Judicial Review (PK) can only be submitted once to the Supreme Court through the Tax Court. A Judicial Review Application can only be submitted based on the reasons as explained in Article 91 of Law Number 14 of 2002: a) If the Tax Court's decision is based on lies or trickery by the opposing party that is only discovered after the decision is issued, or if it is based on evidence that is later declared false by the criminal judge. b) If there is new written evidence that is important and decisive, which if known at the trial stage in the Tax Court would result in a different decision. c) If there is a decision that grants a claim that was not submitted or more than that submitted, except for those based on Article 80 paragraph (1) letters b and c (Tax Court decisions that grant part or all). d) If there is part of the claim that has not been decided without considering the reasons. e) If there is a decision that clearly violates the provisions of applicable laws and regulations. It is important to note that a PK application will not stop or delay the implementation of the Tax Court decision.

### 3.2. Tax Dispute Resolution System in the United States

The IRS is the principal national revenue authority in the US. Tax disputes in the US generally arise through the IRS examination (or audit) process. When a taxpayer disagrees with some or all of the IRS's findings in an examination procedure, the taxpayer may request a meeting or telephone conference with the IRS examiner and/or supervisor. If no agreement is reached at the meeting, the US tax dispute resolution procedure further notifies the taxpayer of their right to appeal to the IRS Office of Appeals within 30 days. If the taxpayer appeals, the IRS Office of Appeals will review the case issues and schedule a conference (Appeals Conference) between the parties so that they can attempt to resolve their differences. If the taxpayer and the IRS disagree on some or all of the issues after the Appeals Conference, or if the taxpayer does not respond to the 30-day letter (that is, chooses to bypass the IRS Appeals system), a 90-day letter (Notice of Deficiency) is issued by the IRS. Taxpayers have 90 days (150 days if addressed to a taxpayer outside the US)

from the date of the 90-day letter to file a petition with the US Tax Court, US District Court, or US Court of Federal Claims (Jone 2017).

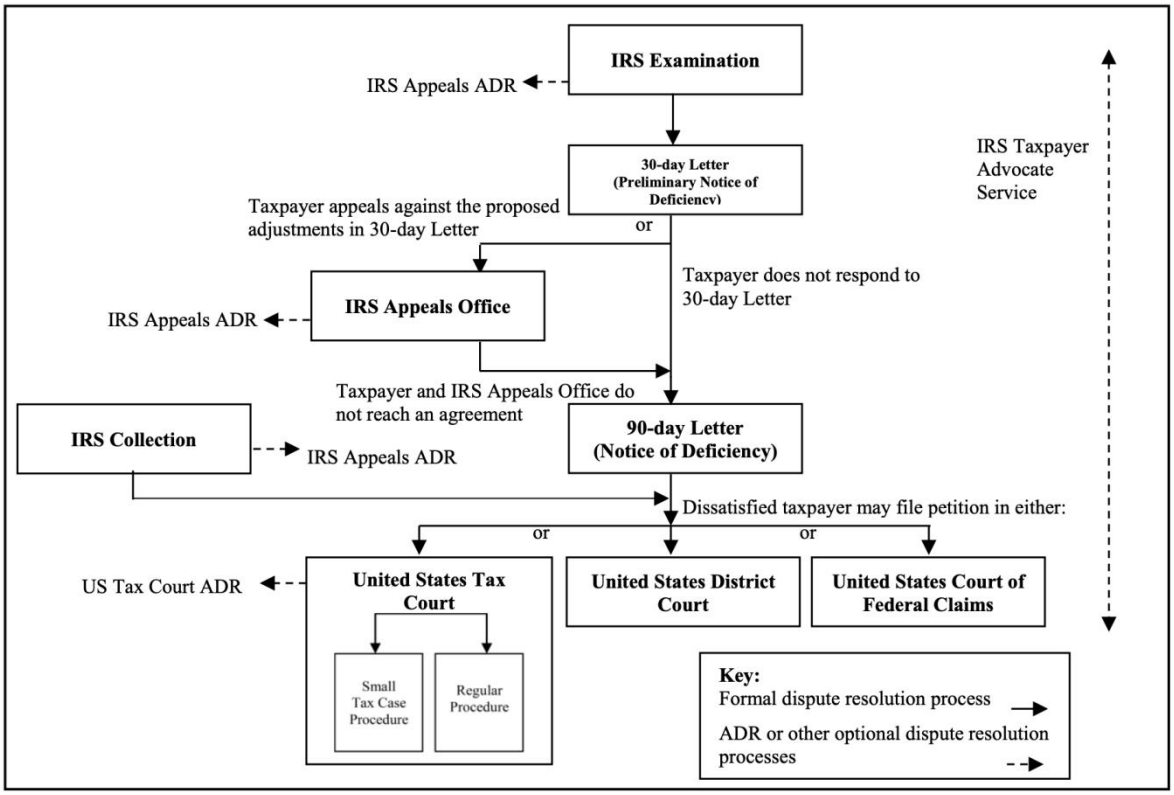


Figure 1: Tax Dispute Resolution Procedures in the United States

In addition, as shown in Figure 1, the IRS Office of Appeals offers a number of ADR programs for certain types of taxpayers to resolve tax disputes during the examination, appeal, and collection stages of the dispute resolution process. For disputes that reach the U.S. Tax Court, ADR processes (arbitration or mediation) are also potentially available (Jone 2017).

The Taxpayer Advocate Service (TAS) provides an additional avenue for taxpayers to resolve issues with the IRS that they are unable to resolve on their own. As shown in Figure 1, TAS is available in addition to the traditional dispute resolution process.

As noted above, the IRS Office of Appeals offers a number of optional post-filing ADR programs for certain eligible taxpayers to resolve disputes during the examination, appeal, and collection stages of the dispute resolution process. These programs currently include: Fast Track Resolution (FTS) (available at the examination stage); Fast Track Mediation-Collection (FTMC) (available at the collection stage); and Post-Appeal Mediation and Rapid Appeal Process (RAP) (available at the Appeal stage). These ADR processes are designed to help taxpayers resolve disputes at the earliest possible stage, generally through the use of mediation services provided by IRS Appeals employees (Jone 2017).

The IRS describes mediation as"an informal, confidential and flexible dispute resolution process in which an Appeals Officer (Appeals Mediator) trained in mediation techniques acts as an impartial third party who facilitates negotiations between the disputing parties".

Appeals Mediators help resolve disputes by identifying the core issues and potential barriers to settlement, and working with the parties to develop a settlement strategy. Appeals Mediators do not have the authority to render a decision or force a party to accept a settlement. However, it should be noted that in the FTS program, Appeals Mediators may suggest settlement proposals to the parties (Jone 2017).

Appeals mediators are specially trained in mediation techniques and are independent of the IRS employees who have been working with the taxpayer. The costs associated with the Appeals mediator are borne by the IRS. Generally, the parties do not have the option of using a non-Appeals employee as a mediator. However, in PAM, the taxpayer has the option of choosing to use a non-IRS associate mediator (along with the Appeals mediator) at their own expense.

If a dispute cannot be resolved using one of the IRS ADR programs that occurs at the pre-Appeal (examination) stage of the dispute process (e.g., FTS), taxpayers still retain applicable appeal rights to request consideration of the unresolved issues by the IRS Office of Appeals or alternatively, file their claim in court.

### 3.3. Tax Dispute Resolution System in Australia

Following the United States, to implement HMRC as a dispute resolution effort through a cooperative paradigm, Australia began using ADR by the Australian Taxation Office (ATO) in 2013 to resolve tax disputes (involving mediation, negotiation, case discussion, conciliation, evaluation by a neutral party). The ATO has developed a strategy and major changes to the culture of tax dispute resolution in Australia.

This was done after recommendations from the OECD to improve relations with taxpayers. Following the recommendations, the ATO then issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes. The regulation contains guidelines and principles for implementing ADR. The regulation has made it easier for taxpayers to resolve tax disputes easily, cost-effectively and quickly.

The ATO's main principle in dispute resolution is to resolve disputes through dispute policies and plan for dispute resolution on a regular basis. The ATO is committed to taxpayers to try to avoid conflict, resolve conflicts quickly, cheaply, simply and effectively and do so politely and fairly. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online by Tania Sourdin and Alan L. Shanks has conducted an evaluation of ADR at the Australian Taxation Office.

The evaluation results show that ADR is able to save time and costs. Based on the evaluation results conducted by HMRC, through investigations and several

observations, dispute resolution through mediation has proven to be an effective strategy to overcome tax dispute deadlocks in the United States.

Furthermore, mediation has been proven to reduce the time and costs required to resolve tax disputes (especially for small and medium individual taxpayers). Mediation can shorten the dispute resolution period from the usual 8-23 months to 61 days or 2 months faster. Mediation can also reduce the costs and time required to resolve tax disputes in large and complex cases.

Australia The taxation agency in the United States, Her Majesty's Revenue and Customs (HMRC), in 2011 tried to create a dispute resolution program using Alternative Dispute Resolution. The first program was to provide ADR for large-scale companies and taxpayers with complex tax problems. The ADR process involves an independent third party called a mediator (accredited mediator).

The second program is aimed at providing ADR for Small and Medium Enterprises and individual taxpayers (SMEs). In the ADR process, especially for SMEs, HMRC provides trained facilitators to resolve disputes (without involving mediators). In the mediation and facilitation program for tax dispute resolution, HMRC involves neutral third parties such as mediators and facilitators.

In recent times, the program has been considered successful and is widely used to resolve individual taxpayer and small and medium-sized business cases. However, HMRC is more cautious about using mediation in some large and more complex cases. United States Australia's ADR arrangements have shown an effort to improve relations with taxpayers. This is evident from the provisions that explain that the relationship between the ATO and taxpayers should not end because of conflict or disputes, as outlined below: Most taxpayer interactions with the ATO do not end in dispute. When disputes do arise, the ATO prefers to resolve them as quickly as possible with minimal cost to the parties. Most disputes are resolved quickly and informally through direct means (Hidayah 2018).

Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000 (Hidayah 2018).

### 3.4. Tax Dispute Resolution System in Russia

Tax disputes are an integral part of any tax administration system. They arise due to different interpretations of tax laws, disagreements of assessments, and procedural errors.

In Russia, tax dispute resolution follows a structured process that includes administrative settlement, judicial settlement, and alternative dispute resolution (ADR) mechanisms (Husan Toshtemir, Ibrohimbek Vohid, and Ozodbek 2024) . The purpose of this system is to ensure fair tax enforcement while protecting the rights of taxpayers. However, challenges such as long turnaround times and complicated legal procedures remain (Guglyuvatyy 2022) . Russia's approach is in line with global best practices but faces challenges such as long turnaround times and complex legal procedures (Belykh 2021).

The first step in resolving tax disputes in Russia is the administrative appeal process. Taxpayers who disagree with the decision of the tax authorities must first appeal to the Russian Federal Tax Service (FTS) before resorting to court litigation (Antonova 2020) . This pre-trial procedure is mandatory and aims to reduce court congestion by resolving dispute within the tax administration. An administrative appeal involves filing a formal complaint detailing the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission reviewed the case and issued a decision within one month, which can be extended in complex cases. If the taxpayer is not satisfied, they can proceed to court (Stepanove 2019) . While administrative appeals provide a faster resolution, critics argue that tax authorities tend to favor their own assessments, reducing the impartiality of the process (Klimova 2021) . Nonetheless, the administrative stage remains an important part of resolving tax disputes, allowing many cases to be resolved without judicial involvement.

If a taxpayer is not satisfied with the administrative decision, he or she can take the dispute to the arbitral tribunals, which deal with economic and tax cases (Zaytsev 2022) . Russia's judicial process for resolving tax disputes consists of three levels:

1. Arbitration Court of First Instance – Handles initial tax litigation cases.
2. Arbitration Court of Appeal – Reviews first-instance decisions.
3. Supreme Court of Russia (Guglyuvatyy 2022) – The final authority on tax disputes, reviewing cases of significant legal importance.

The burden of proof usually lies with the taxpayer, who must demonstrate errors in the assessment of the tax authorities. Russian tax courts rely heavily on documentary evidence, expert testimony, and legal interpretations (Belikova 2020) . Tax disputes in Russia are notorious for the length of their proceedings, with cases often taking several months or even years to resolve. In addition, the complexity of tax laws and frequent changes to tax regulations create uncertainty for taxpayers (Ovcharova 2019).

Although Russia has traditionally relied on administrative and judicial processes, alternative dispute resolution (ADR) mechanisms are increasingly recognized. Alternative dispute resolution includes mediation, conciliation, and arbitration, which can speed up

dispute resolution and reduce dispute costs (Volkova 2022). Mediation in tax disputes is still in its infancy in Russia, and it is mainly used in corporate tax cases. The Government is exploring ways to integrate ADR into the general resolution of tax disputes, drawing on models from countries such as the United States and the United Kingdom (Sokolov 2020).

Tax disputes are an inevitable part of any tax system, and Russia is no exception. Taxpayers in Russia face various challenges in resolving disputes with tax authorities. These challenges include complicated legal procedures, lack of transparency, inconsistent decisions from tax authorities, to inefficiencies of the justice system as a whole. This article delves into some of the key obstacles faced by taxpayers in Russia and examines how these challenges affect the fairness and efficiency of tax dispute resolution.

The First, complicated tax regulations and procedural difficulties. One of the main challenges facing taxpayers in Russia is the complexity of tax regulations. Russia's tax code is often considered too complicated, with frequent changes and unclear provisions. This ambiguity makes it difficult for taxpayers to fully understand their rights and obligations, which then triggers disputes. According to some studies, unclear definitions, frequent regulatory changes, and conflicting interpretations from authorities greatly contribute to the increase in tax-related disputes (Biryukov 2020) This legal complexity often causes taxpayers to inadvertently violate tax laws, which then triggers disputes with the authorities.

In addition, the procedural difficulties involved in resolving tax disputes in Russia are also significant. Taxpayers must follow a complicated procedure to appeal against a decision made by the tax authority. This procedure involves various stages, including administrative review, an appeal to a regional court, and finally, a possible appeal to a higher judicial body. In practice, taxpayers often experience long delays in obtaining decisions and are stuck in convoluted bureaucracy (Morozov 2018).

The Second, lack of transparency and accountability. Transparency in the decision-making process by tax authorities is another critical issue. Taxpayers often report that decisions made by tax authorities do not provide clear reasons or justifications, which makes it difficult for them to understand the basis for the decisions taken in their cases. This lack of transparency hinders taxpayers' ability to challenge decisions effectively (Biryukov 2020). In some cases, the failure to provide a clear explanation has led to a loss of trust between taxpayers and tax authorities.

The lack of accountability in tax administration also exacerbates this problem. Tax authorities in Russia are sometimes considered to have a high degree of autonomy and minimal supervision, which allows for inconsistent and even arbitrary decisions in tax disputes. According to one report, taxpayers often feel that they are in the hands of

individual tax officials whose decisions can vary greatly, depending on their personal interpretation of the law (Morozov 2018) . This lack of standardization in the decision-making process creates an environment where taxpayers are uncertain about the outcome of their disputes.

The Third, Judicial inefficiency and delay. Although the Russian judicial system is intended to provide an avenue for taxpayers to challenge tax disputes, the system is burdened with inefficiencies. The courts are often overwhelmed, and the resolution of tax cases can take years. The slow pace of the judicial process often leaves taxpayers trapped in uncertainty, unable to resolve their disputes in a reasonable time. According to a report from the World Bank, the length and complicated legal process in tax litigation in Russia encourages many taxpayers not to pursue their cases in court (word bank 2021). Instead, many taxpayers choose to resolve their disputes outside the court system, which sometimes results in unfair compromises.

Further, the limited expertise in taxation in the judicial system contributes to inefficiencies in resolving disputes. Although some judges have specialized knowledge, many others do not have the necessary expertise to handle complex tax cases. This can lead to inconsistent decisions and mistakes that are detrimental to taxpayers. The lack of a dedicated tax court further exacerbates this problem (Semenov 2019).

The Fourth, the role of corruption in tax disputes. Corruption in Russia's tax system remains a major challenge. Reports of bribery, favoritism, and unfair practices in tax administration are common. Corruption in the tax system can affect dispute resolution, as taxpayers may be forced to engage in illegal activities to resolve their cases. This creates an unfair playing field, where those with resources can influence outcomes, while ordinary taxpayers struggle to get justice (Transparency International 2020).

In addition, the perception of widespread corruption undermines trust in the tax system, which further complicates efforts to resolve tax disputes fairly. Taxpayers may feel that even when they take the legal route to resolve disputes, they will not receive a fair outcome without engaging in corrupt practices. This undermines the integrity of the entire tax dispute resolution system (Perepelitsa 2017).

To address these challenges, several reforms are needed. First, simplifying the tax code and ensuring clearer and more transparent regulations will help reduce confusion and disputes. Clearer guidelines for taxpayers will also make it easier for them to navigate the system and resolve disputes without unnecessary complications. Second, improving the efficiency of the judicial system by providing specialized tax courts and training judges in tax law will result in faster and more accurate dispute resolution. The establishment of this special court will not only reduce delays but also increase the

credibility of the legal system in terms of taxation. In addition, efforts to eradicate corruption in tax administration must be a top priority. Transparency, accountability, and proper oversight of tax officials are essential to create a fairer environment for taxpayers. Encouraging the use of modern technology, such as online dispute resolution platforms, can also help speed up the process and reduce potential corruption.

### 3.5. Indonesian Tax Dispute Resolution in a Cooperative Paradigm

The regulation of tax dispute resolution through administrative legal efforts (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts) in Indonesia has not shown any cooperative paradigm approach. Based on the experience of resolving tax disputes in tax courts and in order to improve better relations after the dispute, Indonesia can implement dispute resolution using ADR. To overcome these legal problems, where the law has not been able to answer the increasing number of tax disputes and the requirements for taxpayers to obtain dispute resolution quickly, legal discovery is needed. Legal fiction, with the phenomenon of the application of tax dispute resolution using the cooperative paradigm in several countries, can be used by Indonesia as an alternative form of legal discovery to determine changes in the law. In the study of dispute resolution, the focus will be directed at resolving disputes through administrative legal efforts only and not litigation efforts (Hidayah 2018).

Based on the review of the General Guidelines and Tax Procedures Law, the opportunity to apply ADR as mediation is when filing an objection. An objection is an action taken by a Taxpayer if he/she is not/less satisfied with the tax determination imposed on him/her or with a reduction/collection by a third party, by filing a letter of objection to the Director General of Taxes. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer. Efforts to file an objection are regulated in Article 25 paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of the Minister of Finance of the Republic of Indonesia Number 9/PMK.03/2013 concerning Procedures for Filing Objections and has been amended by PMK RI Number 202/PMK.03/2015 (Hidayah 2018).

The use of mediation as a form of ADR with administrative legal efforts can build communication with the principles of openness and familiarity. Mediation will provide a mutually beneficial solution, and a third party will assist in negotiations to satisfy both parties. The third party is independent and trusted to provide decision considerations to help resolve disputes in a polite manner. Mandatory mediation will make it possible to achieve a quick resolution and a transformative process by the mediator. ADR with

mediation will give the parties the freedom to be involved from the early stages before the litigation process.

Mediation is voluntary because it is related to taxpayer rights. Balancing the interests of taxpayers and the government must be done in a new system, namely legislative limitations that must be overcome. A collaborative relationship between taxpayers and tax agencies can open up opportunities for resolving tax disputes using mediation. If formed, then the settlement can be carried out in a polite manner. ADR is expected to accelerate the dispute resolution process and then reduce the number of tax disputes in the tax court, and reduce taxpayer losses both in terms of costs and time in the process of seeking justice. Mediation arrangements can be made by changing the KUP in the future (Hidayah 2018).

The author suggests that as part of the Directorate General of Taxation (DGT) plan, the use of ADR as an efficient and effective means of resolving tax disputes should be implemented. The use of ADR processes as a less confrontational means of resolving disputes may in turn result in a more positive perception of the Directorate General of Taxation (DGT) and thereby increase voluntary compliance and shorten the time for dispute resolution. The emphasis on the use of interest-based ADR methods such as facilitation and mediation as a means of resolving disputes is supported not only in practice by tax authorities such as the IRS, ATO, and FNS but also in the literature.

Thus, the tax dispute resolution system has the potential to be integrated into the Directorate General of Taxes (DGT) Future State initiative through efforts made by the Directorate General of Taxes (DGT) to promote the use of ADR as a fair and efficient means of resolving disputes. Given the protracted process of resolving tax disputes in Indonesia as seen from the applicable regulatory mechanisms.

The DGT can also follow the IRS, ATO and FNS by demonstrating a continued commitment to dispute resolution by including its plan for dispute resolution in the DGT Strategic Plan. In addition, as the experience of the IRS, ATO and FNS suggests, there should be support for a culture of dispute resolution that comes from the top of the revenue authorities. This envisages a greater role for senior members of the revenue authorities such as the DGT Commissioner and the Head of Appeals in genuinely championing a culture of dispute resolution and ADR in speeches, presentations and other interactions with professional associations and other key stakeholders. ADR offers the prospect of resolving tax disputes in a less confrontational manner. However, it requires active involvement and willingness from both parties. This suggests that ADR is likely to be effective in the future.

## 4. Conclusion

The legal framework governing the settlement of tax disputes in Indonesia is currently still limited and inconsistent in its enforcement, resulting in inefficiency in its settlement. This inefficiency can be seen from the complicated and long-winded settlement mechanism. This situation is caused by the uncertain stages of tax objections. On the other hand, the legal norms governing the settlement of tax disputes through the tax court at the appellate level are still not in accordance with the laws and regulations on judicial power. From these problems, it is necessary to resolve tax disputes with a cooperative paradigm. Settlement of tax disputes using ADR as a mediation recommended by the OECD and the experience of the United States, Australia, and Russia can be used as an effort to reduce the amount of tax in the tax court and be able to build better relationships after the dispute. In accordance with the provisions on tax settlement in Indonesia, there are opportunities in the administrative process including agreement efforts. Mediation is expected to realize proportional justice. The principle of openness in resolving tax disputes can increase enthusiasm. In order to improve administrative services to taxpayers and realize settlements with a cooperative paradigm, changes are needed to the General Provisions and Tax Procedures Law.

The author suggests that as part of the Directorate General of Taxes (DGT) plan, the use of ADR as an efficient and effective means of resolving tax disputes should be implemented. The use of the ADR process as a less confrontational means of resolving disputes may in turn result in a more positive perception of the Directorate General of Taxes (DGT) and thereby increase voluntary compliance and shorten dispute resolution time. The emphasis on the use of interest-based ADR methods such as facilitation and mediation as a means of dispute resolution is supported not only in practice by tax authorities such as the IRS, ATO, and FNS but also in the literature.

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7. Revisi yang di berikan oleh reviewer pada tanggal 16 April 2025

**Hasil review dari reviewer dengan memberikan catatan kepada artikel**

After reading this manuscript carefully, there are several important points that need to be fixed by the authors. These include:

1. In the early part of the introduction, the authors do not include enough visible data to open the topic of discussion, so this makes the beginning of this session not very strong.
2. In the middle of the introduction, the authors still do not present the academic problems that are the core of the discussion. Indeed, the authors mention several sentences around keywords such as 'dilemma', 'dualism', doubt of independence, etc., which may be considered as problems to be studied, but the description is still lacking as a good and systematic elaboration of academic problems.

# Weaknesses and Challenges in Tax Dispute Resolution in Indonesia: A Comparative Study of the United States, Russia, and Australia

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ABSTRACT (10PT)

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The legal framework governing the settlement of tax disputes in Indonesia is currently limited and inconsistent in its enforcement, resulting in inefficiency in its settlement. This inefficiency can be seen from the complicated and lengthy settlement mechanism. This situation is caused by the uncertain stages of tax objections. On the other hand, the legal norms governing the settlement of tax disputes through the tax court at the appellate level are inconsistent with the law on judicial power. This study aims to examine the various limitations and inconsistencies of the legal framework and propose solutions that can realize legal certainty. This study uses normative legal methodology using a comparative analysis approach, with a special focus on the United States, Australia, Russia as reference models. This study uses secondary data sources analyzed using deductive methods. The findings highlight three main aspects: First, there is disharmony in tax dispute resolution regulations in Indonesia related to the efficiency of case resolution. Second, on the contrary, the United States, Australia, and Russia provide Alternative Dispute Resolution (ADR) such as mediation and arbitration to accelerate settlement, and show that administrative efficiency. Third, this study presents policy recommendations to harmonize tax regulations in Indonesia related to the efficiency of case resolution, ensuring a coherent legal framework. The findings of this study suggest that the Indonesian government should consider these recommendations to improve the policy framework in tax dispute resolution, especially in the efficiency of case resolution, thus ensuring a balance between taxpayers and tax authorities.

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## 1. Introduction

The existence of taxes today cannot be separated from the series of history,(Adi et al. 2023) Tax is one of the sources of state revenue in financing government and development(Erwiningsih 2022). One of the largest contributors to the realization of tax revenue for the country comes from the Value Added Tax component (Alfath Annisaa and Nuryanah 2023).

The success of a country in collecting taxes from its citizens will certainly benefit the economic stability of the country concerned (Aji et al. 2022). It is this tax sector that contributes to reducing the volume and ratio of the budget deficit (Sukmawati and Bukhori 2022).

The role of taxes is becoming increasingly dominant(Amir, Tangkau, and Miran 2021), This can be seen from the increasing proportion of tax revenue in the APBN (Abduh 2019).

Compared to other revenue sectors such as oil and gas (oil and gas) and non-oil and gas(Basri and Muhibbin 2022). However, in an effort to achieve tax revenue targets, tax decisions issued by authorized tax officials are often not always well received by the taxpayers concerned(Aulia and Marinda Machdar 2023). The obligation for taxpayers to pay taxes to the state does not rule out the possibility that it will be felt as a burden for some taxpayers (Ardiansyah and Wahyudin 2023).

Tax dispute is a term used in the taxation system in Indonesia to describe the existence of a conflict or difference of opinion in tax matters between Taxpayers (WP) and the Directorate

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General of Taxes (DJP) as the tax authority (Wahyudi, Ludigdo, and Djamhuri 2017). Tax disputes often arise, such as due to erroneous points of view during the understanding of tax regulations, dissimilarity of accounting and financial systems, and tax regulations with countries clashing with each other, so that there is dissimilarity when determining the nominal tax for taxpayers (A.A Gede Diotama, Budiartha, and Widiati 2022).

Providing legal certainty to taxpayers and parties involved in tax disputes is one of the most important roles of the Tax Court (Anggraeni 2023). In accordance with the mandate of the Tax Court Law, namely the Republic of Indonesia Law Number 14 of 2002 concerning tax courts dated April 12, 2002 (Candra, Albram, and Hasan 2019). So in 2002 the Tax Court was formed as an effort to create an independent judiciary in resolving tax disputes (Situmeang 2022).

The tax court is the first and/or final level in examining and deciding tax disputes(Purba and Rahadian 2019). In the event that the Tax Court's decision cannot be sued to the General Court, State Administrative Court, or other judicial bodies, except for decisions in the form of "Not acceptable" which concern authority/competence, a judicial review can be submitted to the Supreme Court (Ratna Anggreini 2021). The position of the Tax Court in Indonesia involves two institutions, namely the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance takes care of the organizational, administrative, and financial aspects, as regulated in Law No. 14 of 2002 concerning the Tax Court (Gotama, Widiati, and Seputra 2020). The existence of this dualism has caused many parties to doubt the independence and independence of the Tax Court.

In Article 25 Paragraph (1) of the KUP Law it is stated that tax objections are a legal remedy provided by law for taxpayers who feel they have been disadvantaged (Hamdani, Haskar, and Farda 2023). The objection legal process is a first-level judicial process for tax disputes, although it is actually only a pseudo-trial. It is called a pseudo-trial because the tax objection process is still carried out and decided by the Objection Review Team which is also hierarchically under the DJP organizational structure (Wahyudi, Ludigdo, and Djamhuri 2017).

The issue of independence is indeed a dilemma for Objection Reviewers considering that the position of Objection Reviewers is still under the auspices of the Directorate General of Taxes (S. Supriyadi, Setiawan, and Bintang 2019). The legal process of objections has become a mere legal process of "passing through" to fulfill formal requirements before an appeal or lawsuit can be submitted to the Tax Court (Wahyudi 2022).

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This settlement requires a process and time because what is being disputed in the dispute is the amount of tax which includes the basis for calculation, the disputed tax object, and the method of calculating tax debt, such things cause multiple interpretations for both taxpayers and the government. So that it causes the impact of dispute resolution to drag on and take a long time. In Indonesia, each dispute case takes an average of 36 months to resolve(Saragi 2024). This situation is based on the provisions governing tax objections that are uncertain, tax objections can be submitted by taxpayers, but if within a period of 12 months, the government does not provide an answer, then the objection is considered accepted, such provisions reflect ambiguity and even create legal uncertainty.

Tax objections in their submission have risks, as explained in Article 29 paragraph (9), where in the event that the Taxpayer's objection is rejected or partially granted, the Taxpayer will be subject to administrative sanctions in the form of a fine of 50% of the amount of tax

based on the tax objection decision, minus the tax that has been paid before submitting the objection (Suoth 2018b).

The principle of justice in the judicial system in Indonesia is regulated in Law Number 48 of 2009 concerning Judicial Power (Judicial Power Law), specifically in Article 2 paragraph (4) namely that: "Trial is carried out simply, quickly, and at low cost" The meaning or definition of "Fast" according to the Judicial Power Law cannot be found either in the body or the Explanation of Article 4 paragraph (2) a quo. However, the meaning of "Fast" can certainly be interpreted that the implementation of justice should not take a long time, be long-winded, or even be deliberately delayed in its completion, so as to delay the creation of justice for those seeking justice. According to Sudikno Mertokusumo, the meaning of "Fast" is that the implementation of justice "does not drag on in the process of its completion" (Mertokusumo, 2003). That the implementation of justice should not take a long time and be protracted also refers to one of the main principles in justice, namely that "delayed justice is injustice" (justice delayed is justice denied) (M. W. Supriyadi 2024).

In order to elaborate on efforts to resolve tax disputes in tax courts in Indonesia, another study (Erwiningsih, 2022) concluded that the tax court is an administrative institution that is specific in the field of taxation. However, there are judicial constraints in the process of resolving tax disputes, such as limited ordinary legal remedies and only extraordinary legal remedies, such as Judicial Review to the Supreme Court, which are available to the parties in dispute in the Tax Court. Cassation is not available, there are only Lawsuits, Appeals, and Judicial Review to the Supreme Court as legal remedies (Erwiningsih 2022) In addition, the tax court system in Indonesia does not recognize first-level courts, but rather direct appeals. Another obstacle in the process of resolving tax disputes at the Indonesian Tax Court is the location of the Tax Court which is only in the State Capital and the existence of administrative sanctions in the form of a fine of 100% (one hundred percent) if the taxpayer's appeal is partially granted or rejected, this is very burdensome for taxpayers (Gotama, Widiati, and Seputra 2020).

Based on other previous studies, (Khoirul Hidayah 2018) in his research found social problems related to the increasing number of unresolved tax collections at the Tax Court. In this study, mediation is attempted as a form of Alternative Dispute Resolution in resolving tax settlements in Indonesia. Mediation through administrative legal efforts is expected to provide fast and polite dispute resolution services. Mediation is also expected to increase voluntary taxpayer compliance and improve better relations between taxpayers and the Directorate General of Taxes after the war. He also said that mediation in resolving tax settlements has not been regulated in Indonesia, so in order to construct mediation regulations, it is necessary to amend the General Provisions and Tax Procedures Law (Muhamad, Sinaulan, and Khalimi 2023).

To help achieve the goal of resolving tax disputes efficiently and fairly, it is necessary for tax authorities to manage and resolve disputes early, expeditiously and in a cost-effective manner. Thus, to reduce the escalation of conflicts and improve their relationship with taxpayers, there is a trend by international tax authorities in using various initiatives such as alternative dispute resolution (ADR) processes, to resolve tax disputes without litigation. For the purpose of this article, ADR can be defined as 'a generic term for processes, other than judicial determination, in which an impartial person assists disputants to resolve their issues.

The fundamental nature of the ADR process is that it allows for earlier resolution of tax disputes, or their avoidance altogether, thereby providing both parties with greater certainty and the ability to channel limited resources into more productive activities.8 In addition, the move towards ADR processes in tax dispute resolution is generally in line with tax authorities' 'shifting from a culture of "command and control" to a culture designed to build trust, support and respect in the community' which in turn encourages voluntary compliance.

In addition, the implementation of the ADR process by tax authorities is also in line with the concept of dispute systems design (DSD), which is a deliberate effort to identify and improve the way organizations deal with conflicts by organizing dispute resolution processes in a clear and strategic manner. Thus, the use of ADR to improve the efficiency and effectiveness of tax administration and provide 'improved taxpayer compliance by facilitating the resolution of disputes with tax authorities or even alleviating concerns is consistent with the basic purpose of DSD in reducing the costs of handling disputes and producing more satisfactory and durable resolutions.

Taking cues from other countries that have implemented ADR, the Internal Revenue Service (IRS) in the United States, the Australian Taxation Office (ATO) in Australia, and the Federalnaya nalogovaya sluzhba (FNS) in Russia are three revenue authorities that have incorporated various ADR processes into their tax dispute resolution systems.

The US is considered a relatively mature jurisdiction when it comes to the use of ADR in tax dispute resolution.13 In 1990, Congress passed the Administrative Dispute Resolution Act of 199014 which mandated that all federal government agencies begin implementing ADR into their administrative dispute processes to reduce the time and costs associated with dispute resolution.

In 1998, the Internal Revenue Service Restructuring and Reform Act of 1998 enacted Internal Revenue Code Section 7123. This section directed the IRS to implement procedures to allow for broader use of early appeal programs and to establish procedures to allow for ADR processes such as mediation and arbitration.

Pursuant to this mandate, the IRS established five primary post-filing ADR programs: Fast Track Settlement (FTS); Fast Track Mediation (FTM); Early Referral; Post-Appeal Mediation (PAM); and Arbitration. Since then, the breadth and scope of ADR programs offered by the IRS have changed and expanded over time.

## 2. Research Method

This research is normative legal research (Jaelani, Kusumaningtyas, and Orsantinutsakul 2022). By using legal, conceptual, comparative legal and Systematic Literature Review approaches (Wiwoho et al. 2024). Systematic Literature Review is an approach that involves research and analysis of a collection of relevant literature, such as previously published journals, with a focus on the theory discussed within a certain scope(F. Saputra and Ali 2022). The regulatory-statutory approach in this study examines efforts to resolve tax settlements in Indonesia as regulated in the Tax Administration Law and the Tax Court Law. The conceptual approach examines the concept of tax settlement using the cooperative paradigm recommended by the OECD. While the comparative approach summarizes the tax settlement models used by the United States, Australia, and Russia (Setiawan et al. 2024). A variety of methodologies are used, including legal, conceptual, case, analytical, and philosophical approache(Jaelani and Hayat 2022). This research uses the document study

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method as the chosen data collection strategy(R. Saputra, Setiodjati, and Barkhuizen 2023). The data used is secondary data based on literature studies (Jaelani, Nuryanto, et al. 2023). primary legal materials, namely laws and legal theories(Jaelani, Hayat, et al. 2023). Secondary legal materials consist of books, articles and research findings(Jaelani and Luthviati 2021). As well as studying further primary legal materials at a theoretical level and how they are applied relevantly (Jaelani, Luthviati, et al. 2023).

Legal sources in resolving tax disputes in Indonesia include various laws and regulations, legal principles, and international practices(Rukmono, Suwadi, and Islam 2024). In the discussion, the researcher first describes the management and regulation of tax settlements using the cooperative paradigm in the United States, Australia, and Russia. Then, the researcher conducts identification and analysis using qualitative legal methods. To find related regulations, the researcher uses the legal fiction method.

## 3.Results and Discussion

### 3.1.Tax Dispute Resolution System In Indonesia

If the tax dispute is seen regarding its specifications, it can be seen that the disputing parties are the government as the tax authority and the people as taxpayers or tax payers. In this case, the tax authority is positioned as the respondent/defendant or the party receiving the objection. While on the other hand, it is the people as taxpayers or tax payers who file lawsuits, objections or appeals. The object of the dispute is the government's decision in the tax sector which is directed at the people as taxpayers which is considered detrimental to the taxpayer concerned. The dispute is triggered by the existence of a state administrative decision in the tax sector which is questioned by the taxpayer because he feels disadvantaged by the decision (Ispriyarso 2018).

The practice of resolving tax disputes in the Indonesian Tax Court currently still uses or is based on Law Number 14 of 2002, although there has been an Update on the position of the Tax Court. Based on Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN and Law Number 28 of 2007 concerning General Provisions and Tax Procedures, the position of the Tax Court is a Special Court within the State Administrative Court. The change in the position of the Tax Court certainly results in changes to the litigation procedures in the Tax Court (its Procedural Law). In reality, until now there has been no follow-up, so that the resolution of tax disputes is still based on Law Number 14 of 2002 (Ispriyarso 2018).

Settlement of tax disputes through the Tax Court is regulated in Chapter IV, Articles 34 to 42 of Law Number 14 of 2002, including provisions on the legal remedy of Judicial Review to the Supreme Court. Against a decision, a lawsuit or appeal letter is submitted. The current Tax Court is historically an improvement on the previous Tax Court institution, namely the Tax Dispute Resolution Agency (BPSP). To overcome the shortcomings and weaknesses of the BPSP, especially the implementation of the judicial power system with tiered examinations to the Supreme Court, the Tax Court applies the legal remedy of Judicial Review to the Supreme Court (Suoth 2018a).

The duties and authorities of the Tax Court in resolving tax disputes, namely examining and deciding disputes over objection decisions, unless otherwise determined by applicable laws and regulations. The Tax Court in a lawsuit examines and decides disputes over the implementation of Tax collection on Correction Decisions or other Decisions, as referred to in Article 23 paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax

Procedures which have been amended several times, most recently by Law Number 16 of 2000 and applicable tax laws and regulations.

Legal basis for the appeal and lawsuit procedures at the Tax Court in Indonesia. These basis are mainly found in several laws related to tax regulations in Indonesia: 1. Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP): This law regulates various aspects of taxation, including the procedures for appeals and lawsuits related to tax disputes. The articles in this law describe the technical procedures, including the time, required documents, and procedures for filing an appeal or lawsuit. 2. Law Number 14 of 2002 concerning the Tax Court: This law regulates the establishment of the Tax Court as a special judicial institution that handles tax disputes. There are provisions regarding technical procedures, including appeals and lawsuits, at the Tax Court. 3. Government Regulation Number 45 of 2014 concerning Procedures for Settlement of Tax Disputes: This Government Regulation provides more specific guidance related to technical procedures in resolving tax disputes, including appeals and lawsuits filed with the Tax Court. 4. Regulation of the Director General of Taxes: In addition to the law, there are also technical regulations issued by the Directorate General of Taxes that regulate administrative procedures related to the settlement of tax disputes before entering the realm of the Tax Court. The legal basis above provides a framework that regulates in detail the technical procedures for filing appeals and lawsuits related to tax disputes in the Tax Court. Each of these regulations provides guidelines that regulate aspects of time, required documents, and procedures for filing appeals or lawsuits to resolve tax disputes in the legal realm (Muhamad, Sinaulan, and Khalimi 2023).

The position of the Tax Court in Indonesia involves two institutions, namely the Supreme Court and the Ministry of Finance. The Supreme Court is responsible for the technical-judicial aspects, while the Ministry of Finance takes care of the organizational, administrative, and financial aspects, as regulated in Law No. 14 of 2002 concerning the Tax Court (Aulia and Marinda Machdar 2023).

Settlement of tax disputes in Indonesia involves several channels and institutions, namely the administrative objection process, to the Tax Court, and lawsuits to the Tax Court, and judicial review to the Supreme Court. Settlement of tax disputes recognizes two mechanisms, namely dispute resolution through administrative efforts, namely through the objection institution and through the judicial institution, namely the Tax Court(Sa'adah 2019). Regulations related to institutions that handle tax dispute resolution are clearly explained in formal regulations in tax law.

Administrative efforts are often referred to as impure administrative justice. Impure administrative justice is all justice that does not fully meet the requirements of pure administrative justice, for example because there is no real dispute, or because the person conducting the justice is included in or is part of one of the parties. One form of administrative effort used in resolving disputes is an objection effort. An objection is an administrative effort submitted by a taxpayer to the Director General of Taxes regarding a tax assessment letter and evidence of third party deductions/collections, based on the KUP Law (See Article 25 paragraph (1) and its Explanation of the KUP Law).

If a taxpayer has a dispute related to a Tax Assessment Letter, such as a Tax Underpayment Assessment Letter (SKPKB), Additional Tax Underpayment Assessment Letter (SKPKBT), Tax Overpayment Assessment Letter (SKPLB), Nil Tax Assessment Letter (SKPN), or a dispute related to withholding and collection by a third party, they can resolve this tax dispute through an objection. In filing an objection, the taxpayer must submit an objection letter that meets certain requirements to the official authorized to issue the Tax Assessment Letter. This

objection letter can include objections to the Tax Underpayment Assessment Letter, Additional Tax Underpayment Assessment Letter, Tax Overpayment Assessment Letter, Nil Tax Assessment Letter, as well as withholding or collection by a third party in accordance with the provisions of tax laws and regulations.

The objection letter must be submitted in writing in Indonesian, including the amount of tax owed or the amount of tax withheld or collected, as well as the reasons supporting the objection. Taxpayers have the right to submit an objection letter to the Director General of Taxes (DGT). In accordance with Article 2 Paragraph (3) of the Regulation of the Minister of Finance Number 9/PMK.03/2013 concerning Procedures for Submitting and Resolving Objections, which was last amended by Regulation of the Minister of Finance Number 202/PMK.03/2015, it is stated that taxpayers can only submit objections to the material or content of the tax assessment letter. This material or content involves a number of aspects, including the amount of loss in accordance with tax laws and regulations, the amount of tax to be paid, and material or content related to tax deductions or collections by third parties. The same thing also applies to the types of regional taxes regulated in Law No. 18 of 1997 concerning Regional Taxes and Regional Retributions, which has been amended by Law No. 34 of 2000.

Taxpayers have the right to file objections to the Regional Head or appointed official who has issued the regional tax assessment. Types of regional tax assessment letters that can be the object of objections include Regional Tax Assessment Letters, Regional Tax Underpayment Assessment Letters, Additional Regional Tax Underpayment Assessment Letters, Regional Tax Overpayment Assessment Letters, Regional Tax Nil Assessment Letters, as well as deductions or collections by third parties in accordance with applicable regional tax laws and regulations.

The deadline for submitting an objection letter is set at three months from the date of issuance of the Tax Assessment Letter or from the date of tax deduction or collection by a third party permitted by the provisions of tax laws and regulations to deduct or collect tax. This time limit gives taxpayers enough time to prepare an objection letter and the reasons for it. In addition, this three-month time limit can still be extended if the taxpayer can prove that the delay in submitting the objection letter was caused by circumstances beyond the taxpayer's control (force majeure).

After the objection letter is submitted to the authorized official, the taxpayer is entitled to receive proof of receipt of the objection letter. This proof of receipt, which is given by the authorized official directly or through the post office, serves as a sign that the objection letter has been received. In addition, this proof can also be used by the taxpayer to monitor the twelve-month deadline, in which the Director General of Taxes (for Central Tax) or the Head of Region (for Regional Tax) must provide a decision on the objection submitted by the taxpayer. If within the twelve months no decision is given by the authorized official, then the taxpayer's objection is considered accepted.

It is important to note that the settlement of tax disputes through objection efforts has different characteristics from dispute resolution in court. The decision on the objection letter is taken by a doleansi judge, namely a tax official who has the authority to decide on the objection letter, without a trial process as occurs in the tax court (Rochmat, Soemitro. 1989).

In addition to being resolved through an impure institution, namely through an objection institution, tax dispute resolution can also be resolved by a pure tax court (judicial). Rochmat Soemitro explained that what is meant by pure administrative justice is administrative justice that meets the requirements that resemble justice carried out by a court. The characteristic

of a pure administrative justice is the existence of a triangular relationship between the parties and the body or official who adjudicates. The body or official who adjudicates is a specific and separate body or official."Certain" This means that the agency or official is determined by law or other regulations of the same level. "Separated" meaning that the agency or official conducting the trial is not one of the parties or included in one of the parties or under the influence of one of the parties, so that the agency or official trying the case is above the parties. There are two legal remedies in resolving tax disputes that can be taken through the Tax Court, namely appeals and lawsuits.

According to research conducted by Purba, 2018, if a taxpayer is dissatisfied with the objection decision that has been issued, he has the right to appeal to the tax court. An appeal is a legal step that can be taken by a taxpayer or tax guarantor against a decision that can be appealed in accordance with applicable tax laws and regulations (Wahyudi 2022).

The requirements for filing an appeal are regulated in Article 35 and Article 36 of Law Number 14 of 2002, namely that the submission must use an Appeal Letter in Indonesian, be made within 3 months from the date of receipt of the Decision being appealed, and must be accompanied by clear reasons and include the date of receipt of the decision being appealed, and attach a copy of the decision being appealed. The amount of tax that has not been paid at the time of filing an appeal, as regulated in Article 27 paragraph (5c) of Law Number 28 of 2007, is no longer considered tax payable until the Appeal Decision is issued, so that the requirement to pay 50% of the amount of tax that has not been paid is no longer required by the taxpayer (Purba and Rahadian 2019).

In addition to using the appeal legal remedy, taxpayers also have another option in resolving disputes through the Tax Court, namely by filing a lawsuit. In accordance with Article 1 Paragraph (7) of Law Number 14 of 2002, a lawsuit is a legal action that can be taken by taxpayers against the implementation of tax collection or against decisions that meet the requirements for filing a lawsuit in accordance with applicable laws and regulations. The lawsuit must be submitted in writing in Indonesian and can only be submitted to the Tax Court. The lawsuit must include clear reasons, the date of receipt of the collection implementation or the decision being contested, and a copy of the document that is the object of the lawsuit must be attached (Sa'adah 2019).

Filing a lawsuit has two different time periods, namely the time period for filing a lawsuit against the implementation of tax collection, and the time period for filing a lawsuit against a decision that meets the requirements to be filed for a lawsuit. The time period for filing a lawsuit against the implementation of tax collection is 14 days from the date of the collection implementation. Meanwhile, the time period for filing a lawsuit against a decision that can be challenged is 30 days from the date of receipt of the decision that meets the requirements to be filed for a lawsuit. The Tax Court's decision is a final decision, and there is no option to file a cassation appeal in the process of resolving this dispute.

However, if taxpayers are still dissatisfied with the Tax Court's decision, they have the opportunity to make extraordinary legal efforts, namely a Judicial Review, which is regulated in Articles 89-93 of Law Number 14 of 2002. A Judicial Review (PK) can only be submitted once to the Supreme Court through the Tax Court. A Judicial Review Application can only be submitted based on the reasons as explained in Article 91 of Law Number 14 of 2002: a) If the Tax Court's decision is based on lies or trickery by the opposing party that is only discovered after the decision is issued, or if it is based on evidence that is later declared false by the criminal judge. b) If there is new written evidence that is important and decisive, which if known at the trial stage in the Tax Court would result in a different decision. c) If there is a

decision that grants a claim that was not submitted or more than that submitted, except for those based on Article 80 paragraph (1) letters b and c (Tax Court decisions that grant part or all). d) If there is part of the claim that has not been decided without considering the reasons. e) If there is a decision that clearly violates the provisions of applicable laws and regulations. It is important to note that a PK application will not stop or delay the implementation of the Tax Court decision.

### 3.2. Tax Dispute Resolution System in the United States

The IRS is the principal national revenue authority in the US. Tax disputes in the US generally arise through the IRS examination (or audit) process. When a taxpayer disagrees with some or all of the IRS's findings in an examination procedure, the taxpayer may request a meeting or telephone conference with the IRS examiner and/or supervisor. If no agreement is reached at the meeting, the US tax dispute resolution procedure further notifies the taxpayer of their right to appeal to the IRS Office of Appeals within 30 days. If the taxpayer appeals, the IRS Office of Appeals will review the case issues and schedule a conference (Appeals Conference) between the parties so that they can attempt to resolve their differences. If the taxpayer and the IRS disagree on some or all of the issues after the Appeals Conference, or if the taxpayer does not respond to the 30-day letter (that is, chooses to bypass the IRS Appeals system), a 90-day letter (Notice of Deficiency) is issued by the IRS. Taxpayers have 90 days (150 days if addressed to a taxpayer outside the US) from the date of the 90-day letter to file a petition with the US Tax Court, US District Court, or US Court of Federal Claims (Jone 2017).

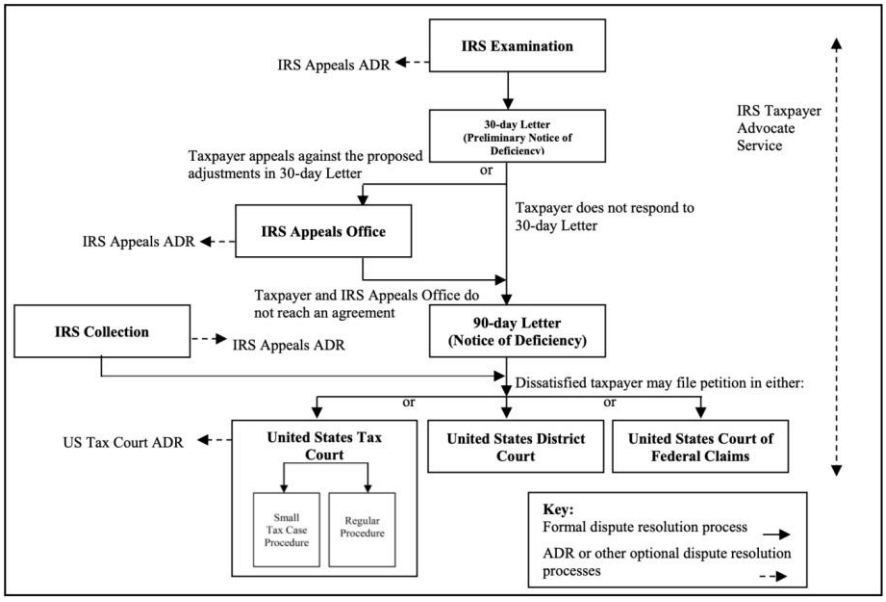


Figure 1: Tax Dispute Resolution Procedures in the United States

In addition, as shown in Figure 1, the IRS Office of Appeals offers a number of ADR programs for certain types of taxpayers to resolve tax disputes during the examination, appeal, and collection stages of the dispute resolution process. For disputes that reach the

U.S. Tax Court, ADR processes (arbitration or mediation) are also potentially available (Jone 2017).

The Taxpayer Advocate Service (TAS) provides an additional avenue for taxpayers to resolve issues with the IRS that they are unable to resolve on their own. As shown in Figure 1, TAS is available in addition to the traditional dispute resolution process.

As noted above, the IRS Office of Appeals offers a number of optional post-filing ADR programs for certain eligible taxpayers to resolve disputes during the examination, appeal, and collection stages of the dispute resolution process. These programs currently include: Fast Track Resolution (FTS) (available at the examination stage); Fast Track Mediation-Collection (FTMC) (available at the collection stage); and Post-Appeal Mediation and Rapid Appeal Process (RAP) (available at the Appeal stage). These ADR processes are designed to help taxpayers resolve disputes at the earliest possible stage, generally through the use of mediation services provided by IRS Appeals employees (Jone 2017).

The IRS describes mediation as"an informal, confidential and flexible dispute resolution process in which an Appeals Officer (Appeals Mediator) trained in mediation techniques acts as an impartial third party who facilitates negotiations between the disputing parties". Appeals Mediators help resolve disputes by identifying the core issues and potential barriers to settlement, and working with the parties to develop a settlement strategy. Appeals Mediators do not have the authority to render a decision or force a party to accept a settlement. However, it should be noted that in the FTS program, Appeals Mediators may suggest settlement proposals to the parties (Jone 2017).

Appeals mediators are specially trained in mediation techniques and are independent of the IRS employees who have been working with the taxpayer. The costs associated with the Appeals mediator are borne by the IRS. Generally, the parties do not have the option of using a non-Appeals employee as a mediator. However, in PAM, the taxpayer has the option of choosing to use a non-IRS associate mediator (along with the Appeals mediator) at their own expense.

If a dispute cannot be resolved using one of the IRS ADR programs that occurs at the pre-Appeal (examination) stage of the dispute process (e.g., FTS), taxpayers still retain applicable appeal rights to request consideration of the unresolved issues by the IRS Office of Appeals or alternatively, file their claim in court.

### 3. 3. Tax Dispute Resolution System in Australia

Following the United States, to implement HMRC as a dispute resolution effort through a cooperative paradigm, Australia began using ADR by the Australian Taxation Office (ATO) in 2013 to resolve tax disputes (involving mediation, negotiation, case discussion, conciliation, evaluation by a neutral party). The ATO has developed a strategy and major changes to the culture of tax dispute resolution in Australia.

This was done after recommendations from the OECD to improve relations with taxpayers. Following the recommendations, the ATO then issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes. The regulation contains guidelines and principles for implementing ADR. The regulation has made it easier for taxpayers to resolve tax disputes easily, cost-effectively and quickly.

The ATO's main principle in dispute resolution is to resolve disputes through dispute policies and plan for dispute resolution on a regular basis. The ATO is committed to taxpayers to try to avoid conflict, resolve conflicts quickly, cheaply, simply and effectively and do so politely and fairly. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online by Tania Sourdin and Alan L. Shanks has conducted an evaluation of ADR at the Australian Taxation Office.

The evaluation results show that ADR is able to save time and costs. Based on the evaluation results conducted by HMRC, through investigations and several observations, dispute resolution through mediation has proven to be an effective strategy to overcome tax dispute deadlocks in the United States.

Furthermore, mediation has been proven to reduce the time and costs required to resolve tax disputes (especially for small and medium individual taxpayers). Mediation can shorten the dispute resolution period from the usual 8-23 months to 61 days or 2 months faster. Mediation can also reduce the costs and time required to resolve tax disputes in large and complex cases.

Australia The taxation agency in the United States, Her Majesty's Revenue and Customs (HMRC), in 2011 tried to create a dispute resolution program using Alternative Dispute Resolution. The first program was to provide ADR for large-scale companies and taxpayers with complex tax problems. The ADR process involves an independent third party called a mediator (accredited mediator).

The second program is aimed at providing ADR for Small and Medium Enterprises and individual taxpayers (SMEs). In the ADR process, especially for SMEs, HMRC provides trained facilitators to resolve disputes (without involving mediators). In the mediation and facilitation program for tax dispute resolution, HMRC involves neutral third parties such as mediators and facilitators.

In recent times, the program has been considered successful and is widely used to resolve individual taxpayer and small and medium-sized business cases. However, HMRC is more cautious about using mediation in some large and more complex cases. United States Australia's ADR arrangements have shown an effort to improve relations with taxpayers. This is evident from the provisions that explain that the relationship between the ATO and taxpayers should not end because of conflict or disputes, as outlined below: Most taxpayer interactions with the ATO do not end in dispute. When disputes do arise, the ATO prefers to resolve them as quickly as possible with minimal cost to the parties. Most disputes are resolved quickly and informally through direct means (Hidayah 2018).

Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000 (Hidayah 2018).

### 3.4. Tax Dispute Resolution System in Russia

Tax disputes are an integral part of any tax administration system. They arise due to different interpretations of tax laws, disagreements of assessments, and procedural errors.

In Russia, tax dispute resolution follows a structured process that includes administrative settlement, judicial settlement, and alternative dispute resolution (ADR) mechanisms(Husan Toshtemir, Ibrohimbek Vohid, and Ozodbek 2024). The purpose of this system is to ensure fair tax enforcement while protecting the rights of taxpayers. However, challenges such as long turnaround times and complicated legal procedures remain (Guglyuvatyy 2022). Russia's approach is in line with global best practices but faces challenges such as long turnaround times and complex legal procedures(Belykh 2021).

The first step in resolving tax disputes in Russia is the administrative appeal process. Taxpayers who disagree with the decision of the tax authorities must first appeal to the Russian Federal Tax Service (FTS) before resorting to court litigation (Antonova 2020). This pre-trial procedure is mandatory and aims to reduce court congestion by resolving dispute within the tax administration. An administrative appeal involves filing a formal complaint detailing the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission reviewed the case and issued a decision within one month, which can be extended in complex cases. If the taxpayer is not satisfied, they can proceed to court(Stepanove 2019). While administrative appeals provide a faster resolution, critics argue that tax authorities tend to favor their own assessments, reducing the impartiality of the process(Klimova 2021). Nonetheless, the administrative stage remains an important part of resolving tax disputes, allowing many cases to be resolved without judicial involvement.

If a taxpayer is not satisfied with the administrative decision, he or she can take the dispute to the arbitral tribunals, which deal with economic and tax cases(Zaytsev 2022). Russia's judicial process for resolving tax disputes consists of three levels:

1. Arbitration Court of First Instance – Handles initial tax litigation cases.
2. Arbitration Court of Appeal – Reviews first-instance decisions.
3. Supreme Court of Russia(Guglyuvatyy 2022) – The final authority on tax disputes, reviewing cases of significant legal importance.

The burden of proof usually lies with the taxpayer, who must demonstrate errors in the assessment of the tax authorities. Russian tax courts rely heavily on documentary evidence, expert testimony, and legal interpretations(Belikova 2020). Tax disputes in Russia are notorious for the length of their proceedings, with cases often taking several months or even years to resolve. In addition, the complexity of tax laws and frequent changes to tax regulations create uncertainty for taxpayers (Ovcharova 2019).

Although Russia has traditionally relied on administrative and judicial processes, alternative dispute resolution (ADR) mechanisms are increasingly recognized. Alternative dispute resolution includes mediation, conciliation, and arbitration, which can speed up dispute resolution and reduce dispute costs (Volkova 2022). Mediation in tax disputes is still in its infancy in Russia, and it is mainly used in corporate tax cases. The Government is exploring ways to integrate ADR into the general resolution of tax disputes, drawing on models from countries such as the United States and the United Kingdom (Sokolov 2020).

Tax disputes are an inevitable part of any tax system, and Russia is no exception. Taxpayers in Russia face various challenges in resolving disputes with tax authorities. These challenges include complicated legal procedures, lack of transparency, inconsistent decisions from tax authorities, to inefficiencies of the justice system as a whole. This article delves into some of the key obstacles faced by taxpayers in Russia and examines how these challenges affect the fairness and efficiency of tax dispute resolution.

The First, complicated tax regulations and procedural difficulties. One of the main challenges facing taxpayers in Russia is the complexity of tax regulations. Russia's tax code is often considered too complicated, with frequent changes and unclear provisions. This ambiguity makes it difficult for taxpayers to fully understand their rights and obligations, which then triggers disputes. According to some studies, unclear definitions, frequent regulatory changes, and conflicting interpretations from authorities greatly contribute to the increase in tax-related disputes(Biryukov 2020) This legal complexity often causes taxpayers to inadvertently violate tax laws, which then triggers disputes with the authorities.

In addition, the procedural difficulties involved in resolving tax disputes in Russia are also significant. Taxpayers must follow a complicated procedure to appeal against a decision made by the tax authority. This procedure involves various stages, including administrative review, an appeal to a regional court, and finally, a possible appeal to a higher judicial body. In practice, taxpayers often experience long delays in obtaining decisions and are stuck in convoluted bureaucracy (Morozov 2018).

The Second, lack of transparency and accountability. Transparency in the decision-making process by tax authorities is another critical issue. Taxpayers often report that decisions made by tax authorities do not provide clear reasons or justifications, which makes it difficult for them to understand the basis for the decisions taken in their cases. This lack of transparency hinders taxpayers' ability to challenge decisions effectively (Biryukov 2020). In some cases, the failure to provide a clear explanation has led to a loss of trust between taxpayers and tax authorities.

The lack of accountability in tax administration also exacerbates this problem. Tax authorities in Russia are sometimes considered to have a high degree of autonomy and minimal supervision, which allows for inconsistent and even arbitrary decisions in tax disputes. According to one report, taxpayers often feel that they are in the hands of individual tax officials whose decisions can vary greatly, depending on their personal interpretation of the law(Morozov 2018). This lack of standardization in the decision-making process creates an environment where taxpayers are uncertain about the outcome of their disputes.

The Third, Judicial inefficiency and delay. Although the Russian judicial system is intended to provide an avenue for taxpayers to challenge tax disputes, the system is burdened with inefficiencies. The courts are often overwhelmed, and the resolution of tax cases can take years. The slow pace of the judicial process often leaves taxpayers trapped in uncertainty, unable to resolve their disputes in a reasonable time. According to a report from the World Bank, the length and complicated legal process in tax litigation in Russia encourages many taxpayers not to pursue their cases in court (word bank 2021). Instead, many taxpayers choose to resolve their disputes outside the court system, which sometimes results in unfair compromises.

Further, the limited expertise in taxation in the judicial system contributes to inefficiencies in resolving disputes. Although some judges have specialized knowledge, many others do not have the necessary expertise to handle complex tax cases. This can lead to inconsistent decisions and mistakes that are detrimental to taxpayers. The lack of a dedicated tax court further exacerbates this problem (Semenov 2019).

The Fourth, the role of corruption in tax disputes. Corruption in Russia's tax system remains a major challenge. Reports of bribery, favoritism, and unfair practices in tax administration are common. Corruption in the tax system can affect dispute resolution, as taxpayers may be forced to engage in illegal activities to resolve their cases. This creates an unfair playing field, where those with resources can influence outcomes, while ordinary taxpayers struggle to get justice (Transparency International 2020).

In addition, the perception of widespread corruption undermines trust in the tax system, which further complicates efforts to resolve tax disputes fairly. Taxpayers may feel that even when they take the legal route to resolve disputes, they will not receive a fair outcome without engaging in corrupt practices. This undermines the integrity of the entire tax dispute resolution system (Perepelitsa 2017).

To address these challenges, several reforms are needed. First, simplifying the tax code and ensuring clearer and more transparent regulations will help reduce confusion and disputes. Clearer guidelines for taxpayers will also make it easier for them to navigate the system and resolve disputes without unnecessary complications. Second, improving the efficiency of the judicial system by providing specialized tax courts and training judges in tax law will result in faster and more accurate dispute resolution. The establishment of this special court will not only reduce delays but also increase the credibility of the legal system in terms of taxation. In addition, efforts to eradicate corruption in tax administration must be a top priority. Transparency, accountability, and proper oversight of tax officials are essential to create a fairer environment for taxpayers. Encouraging the use of modern technology, such as online dispute resolution platforms, can also help speed up the process and reduce potential corruption.

### 3.5. Indonesian Tax Dispute Resolution in a Cooperative Paradigm

The regulation of tax dispute resolution through administrative legal efforts (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts) in Indonesia has not shown any cooperative paradigm approach. Based on the experience of resolving tax disputes in tax courts and in order to improve better relations after the dispute, Indonesia can implement dispute resolution using ADR. To overcome these legal problems, where the law has not been able to answer the increasing number of tax disputes and the requirements for taxpayers to obtain dispute resolution quickly, legal discovery is needed. Legal fiction, with the phenomenon of the application of tax dispute resolution using the cooperative paradigm in several countries, can be used by Indonesia as an alternative form of legal discovery to determine changes in the law. In the study of dispute resolution, the focus will be directed at resolving disputes through administrative legal efforts only and not litigation efforts (Hidayah 2018).

Based on the review of the General Guidelines and Tax Procedures Law, the opportunity to apply ADR as mediation is when filing an objection. An objection is an action taken by a Taxpayer if he/she is not/less satisfied with the tax determination imposed on him/her or with a reduction/collection by a third party, by filing a letter of objection to the Director General of Taxes. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer. Efforts to file an objection are regulated in Article 25 paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of the Minister

of Finance of the Republic of Indonesia Number 9/PMK.03/2013 concerning Procedures for Filing Objections and has been amended by PMK RI Number 202/PMK.03/2015 (Hidayah 2018).

The use of mediation as a form of ADR with administrative legal efforts can build communication with the principles of openness and familiarity. Mediation will provide a mutually beneficial solution, and a third party will assist in negotiations to satisfy both parties. The third party is independent and trusted to provide decision considerations to help resolve disputes in a polite manner. Mandatory mediation will make it possible to achieve a quick resolution and a transformative process by the mediator. ADR with mediation will give the parties the freedom to be involved from the early stages before the litigation process.

Mediation is voluntary because it is related to taxpayer rights. Balancing the interests of taxpayers and the government must be done in a new system, namely legislative limitations that must be overcome. A collaborative relationship between taxpayers and tax agencies can open up opportunities for resolving tax disputes using mediation. If formed, then the settlement can be carried out in a polite manner. ADR is expected to accelerate the dispute resolution process and then reduce the number of tax disputes in the tax court, and reduce taxpayer losses both in terms of costs and time in the process of seeking justice. Mediation arrangements can be made by changing the KUP in the future (Hidayah 2018).

The author suggests that as part of the Directorate General of Taxation (DGT) plan, the use of ADR as an efficient and effective means of resolving tax disputes should be implemented. The use of ADR processes as a less confrontational means of resolving disputes may in turn result in a more positive perception of the Directorate General of Taxation (DGT) and thereby increase voluntary compliance and shorten the time for dispute resolution. The emphasis on the use of interest-based ADR methods such as facilitation and mediation as a means of resolving disputes is supported not only in practice by tax authorities such as the IRS, ATO, and FNS but also in the literature.

Thus, the tax dispute resolution system has the potential to be integrated into the Directorate General of Taxes (DGT) Future State initiative through efforts made by the Directorate General of Taxes (DGT) to promote the use of ADR as a fair and efficient means of resolving disputes. Given the protracted process of resolving tax disputes in Indonesia as seen from the applicable regulatory mechanisms.

The DGT can also follow the IRS, ATO and FNS by demonstrating a continued commitment to dispute resolution by including its plan for dispute resolution in the DGT Strategic Plan. In addition, as the experience of the IRS, ATO and FNS suggests, there should be support for a culture of dispute resolution that comes from the top of the revenue authorities. This envisages a greater role for senior members of the revenue authorities such as the DGT Commissioner and the Head of Appeals in genuinely championing a culture of dispute resolution and ADR in speeches, presentations and other interactions with professional associations and other key stakeholders. ADR offers the prospect of resolving tax disputes in a less confrontational manner. However, it requires active involvement and willingness from both parties. This suggests that ADR is likely to be effective in the future.

## 4. Conclusion

The legal framework governing the settlement of tax disputes in Indonesia is currently still limited and inconsistent in its enforcement, resulting in inefficiency in its settlement. This inefficiency can be seen from the complicated and long-winded settlement mechanism.

This situation is caused by the uncertain stages of tax objections. On the other hand, the legal norms governing the settlement of tax disputes through the tax court at the appellate level are still not in accordance with the laws and regulations on judicial power. From these problems, it is necessary to resolve tax disputes with a cooperative paradigm. Settlement of tax disputes using ADR as a mediation recommended by the OECD and the experience of the United States, Australia, and Russia can be used as an effort to reduce the amount of tax in the tax court and be able to build better relationships after the dispute. In accordance with the provisions on tax settlement in Indonesia, there are opportunities in the administrative process including agreement efforts. Mediation is expected to realize proportional justice. The principle of openness in resolving tax disputes can increase enthusiasm. In order to improve administrative services to taxpayers and realize settlements with a cooperative paradigm, changes are needed to the General Provisions and Tax Procedures Law.

The author suggests that as part of the Directorate General of Taxes (DGT) plan, the use of ADR as an efficient and effective means of resolving tax disputes should be implemented. The use of the ADR process as a less confrontational means of resolving disputes may in turn result in a more positive perception of the Directorate General of Taxes (DGT) and thereby increase voluntary compliance and shorten dispute resolution time. The emphasis on the use of interest-based ADR methods such as facilitation and mediation as a means of dispute resolution is supported not only in practice by tax authorities such as the IRS, ATO, and FNS but also in the literature.

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**Legal Discovery in Indonesia's Tax Dispute Framework: A Comparative Study of the United States, Australia, and Russia**

# Legal Discovery in Indonesia's Tax Dispute Framework: A Comparative Study of the United States, Australia, and Russia

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ABSTRACT (10PT)

Tax dispute resolution in Indonesia faces significant challenges due to the disharmony between the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures (KUP) Law, which undermines the independence of the Tax Court. This research aims to evaluate the current tax dispute framework in Indonesia and explore potential reforms by comparing the systems in the United States, Russia, and Australia. The research utilizes a This research is a normative legal research using a legislative, conceptual and comparative approach. The findings highlight that the Tax Court's independence has been compromised by a dual guidance system from the Supreme Court and the Ministry of Finance. Despite recent reforms enhancing the court's autonomy, the system still struggles with case backlogs, long processing times, high costs, and limited accessibility due to centralization in Jakarta. The study also demonstrates that implementing Alternative Dispute Resolution (ADR) mechanisms in US, Australia, and Rusia, such as mediation, successfully improved tax dispute resolution in other countries, fostering taxpayer trust, efficiency, and impartiality. This paper concludes that Indonesia's tax dispute resolution system requires urgent reform by fully integrating the Tax Court under the Supreme Court, clarifying procedural laws, and adopting ADR to streamline processes and enhance efficiency. The Directorate General of Taxes (DGT) is encouraged to incorporate ADR into its strategic plan, fostering a more transparent, accountable, and accessible tax system.

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## 1. Introduction

The accumulation of funds required to advance this archipelago is one of the numerous critical functions of the Indonesian tax system. Nevertheless, disputes between tax officials and taxpayers may arise. Disputes occur when there is a disagreement regarding the interpretation of tax

regulations, the amount of tax that should be paid, or the execution of administrative duties.[1] Disputes of this nature are inevitable due to the complexity of tax law and the numerous factors that must be considered. Tax dispute resolution is critical for establishing an equitable and effective tax system that elucidates the law for all parties.[2]

One of the Tax Court's critical functions is to offer legal certainty to taxpayers and parties involved in tax disputes. The Tax Court is the initial and/or final level of review and determination in tax disputes.[3] In the event that a Tax Court decision is unchallengeable at the General Court, State Administrative Court, or any other judicial body, with the exception of a decision stating "Not acceptable" regarding authority/competence, a judicial review may be sought from the Supreme Court.[4] Two institutions, the Supreme Court and the Ministry of Finance, are involved in the Tax Court's position in Indonesia. As stipulated in Law No. 14 of 2002 regarding the Tax Court, the Ministry of Finance is responsible for the organizational, administrative, and financial aspects, while the Supreme Court is responsible for the technical-judicial aspects.. The Tax Court is distinguished from the legal system as a whole by several characteristics that are related to the tax dispute resolution procedure. This court is responsible for evaluating and resolving disputes between tax officers and taxpayers.[5]

Even though "Law No. 14 of 2002" has established a well-defined framework for tax dispute resolution, it remains ineffective due to numerous insurmountable obstacles. Indonesia's administrative tax dispute resolution system does not offer disputing parties the opportunity to pursue conventional legal remedies. Instead, it provides the Supreme Court with an unconventional legal remedy through judicial review. Consequently, taxpayers find it more challenging to obtain justice, particularly in cases where tax officials' decisions are perceived as unjust. Furthermore, it is crucial to adhere to tax regulations and consider the consequences of unfair choices, as both have the potential to discourage individuals and organizations from violating tax provisions. The Directorate General of Taxes should revoke the business licenses of individuals who violate the law to motivate more individuals to pay their taxes. The Directorate General of Taxes (DGT) frequently fails to resolve tax-related matters. This is primarily attributable to the fact that taxpayer documentation is insufficient or regulations are not enforced consistently. PT Tirta Investama, for instance, was subject to financial adjustments by the DGT due to non-compliance with the provisions recorded during the audit and the absence of documentation indicating management services provided by Danone Asia Pte Ltd.[6]

The resolution of tax disputes must be more consistent with the judicial system as a whole, as per the provisions of "Law No. 48/2009 on Judicial Power." An independent judicial authority is a critical prerequisite for the establishment and resilience of a state founded on the rule of law. In the absence of an independent judicial power, the authorities will have the opportunity to abuse power

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[1] A.A Gede Diotama, I Nyoman Putu Budiartha, and Ida Ayu Putu Widiati, 'Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung', *Jurnal Konstruksi Hukum*, 3.1 (2022), 153–59 <https://doi.org/10.22225/jkh.3.1.4411.153-159>.

[2] Yuli Trisnawati and Siti Nuryanah, 'EVALUATING THE EFFECTIVENESS OF TAX OBJECTION REVIEW IN INDONESIA'S TAX AUTHORITY', *Jurnal Akuntansi Dan Keuangan Indonesia*, 19.1 (2022), 68–95 <https://doi.org/10.21002/jaki.2022.04>.

[3] Tumian Lian Daya Purba and Dian Rahadian, 'Penyelesaian Sengketa Pajak Pada Kantor Pelayanan Pajak Kota Jayapura', *JURNAL EKOLOGI BIROKRASI*, 6.3 (2019), 11–22 <https://doi.org/10.31957/jeb.v6i3.780>.

[4] Reni Ratna Anggreini, 'Relasi Mahkamah Agung Dan Pengadilan Pajak Dalam Kekuasaan Kehakiman', *Jurnal Lex Renaissance*, 6.3 (2021) <https://doi.org/10.20885/JLR.vol6.iss3.art8>.

[5] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331–35 <https://doi.org/10.22225/ah.2.3.2521.331-335>.

[6] Daniel Edgar Hirasma Saragi, 'MENGAPA DJP KALAH DALAM SENGKETA PAJAK? STUDI KASUS PADA PERUSAHAAN AIR MINUM DALAM KEMASAN', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 8.1 (2024), 27–51 <https://doi.org/10.31092/jpi.v8i1.2720>.

and neglect human rights, particularly due to the influence of government (executive)power.[7] The 1945 Constitution (hereinafter referred to as the 1945 Constitution) Article 24 Paragraph (2) regulates judicial power as follows: "Judicial power is exercised by the Supreme Court and judicial bodies under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and by a Constitutional Court." Additionally, Law Number 48 of 2009 (hereinafter referred to as the Judicial Power Law) Article 25 specifies that the judicial bodies under the Supreme Court include judicial bodies in the general judicial environment, religious judicial environment, military judicial environment, and state administrative, judicial environment.[8]

The institutions authorized to exercise judicial power have been mentioned in a limited manner (limitation) about the provisions. In other terms, the Constitution explicitly specifies the judicial institutions that exist. The courts must be located in one of the judicial environments under the Supreme Court, such as the general judicial environment, religious courts, military courts, or state administrative courts, despite the existence of courts that the Constitution does not stipulate. On the other hand, the tax court's position is ambiguous by Law Number 14 of 2002 concerning the Tax Court (hereinafter referred to as the Tax Court Law). Article 2 of this law states that "the tax court is a judicial body that exercises judicial power for taxpayers or tax payers who seek justice for tax disputes." Consequently, the Judicial Power Law lacks synchronicity, as only four courts are listed in Article 25 above.[9]

The Tax Court is an administrative court (judicial control) that offers legal protection to individuals who experience disadvantage due to state administrative decisions in the form of stipulations (beschikking) issued by officials or State Administration bodies when viewed from a hierarchical perspective. Essentially, the Tax Court is anticipated to be able to offer a sense of justice to the disadvantaged party, which is the community in this instance. However, numerous issues have arisen in the process, including the regulatory system governing the Tax Court and the institutions and guidance.[10]

The "two-roof" Tax Court has implications for the Tax Court's performance. It raises several issues related to the recruitment of judges, supervision, development of judges, and their supporting resources, as well as the embodiment of the principles of transparency and openness of public information. Therefore, the Tax Court should be reformed to become a "one-roof" and independent judicial institution. The Supreme Court is responsible for the technical development of the judiciary and the organization, administration, and finance. The Tax Court's "one roof" construction is a distinct design that is a special court under the State Administrative Court.[11]

The Ministry of Finance, the Supreme Court, and the Judicial Commission's overlapping supervisory responsibilities can result in the rejection of supervision by any agency that will supervise based on the authority of the supervisory agency. The independence of the tax court will be impacted by guidance on one side in the Supreme Court (as a judicial institution) and on the other

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[7] Vidyatika Dwi Listanti, 'Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024', *Jurnal Indonesia Sosial Sains*, 6.1 (2025), 286–99 <https://doi.org/10.59141/jiss.v6i1.1549>.

[8] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court', *Global Conference on Business and Social Sciences Proceeding*, 13.1 (2022), 1–1 <https://doi.org/10.35609/gcbssproceeding.2022.1(95)>.

[9] Basuki Kurniawan and Nita Ryan Purbosari, 'PENYELESAIAN DISHARMONI PERATURAN PERUNDANG-UNDANGAN MELALUI JALUR MEDIASI', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyyah Fakultas Syariah IAIN Mataram*, 14.1 (2022), 83–96 <https://doi.org/10.20414/alihkam.v14i1.4734>.

[10] Dien Hanifa, Arrisman Arrisman, and Imam Haryanto, 'The Existence of Tax Courts in Indonesia From the Colonial Era, Independence, to Reformation', *Asian Journal of Social and Humanities*, 2.7 (2024), 1461–70 <https://doi.org/10.59888/ajosh.v2i7.279>.

[11] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175 (2018), 012203 <https://doi.org/10.1088/1755-1315/175/1/012203>.

side in the Ministry of Finance (as an executive institution). This causes a contradiction, as the Ministry of Finance, which carries out executive functions, also carries out judicial functions when a tax dispute arises. The two institutions should be distinct to function as separate entities that regulate or supervise one another. Conditions arise to oversee the institution itself in such situations.[12]

The Tax Court, an appellate court by universally applicable Legal Science, as stipulated in Article 27 of the Judicial Power Law, emphasized its existence and independence. As a special court, it is appropriate to have its procedural law, as each court has its procedural law that guides law enforcers and judges to exercise judicial power. Additionally, the Tax Court's independence is evident in the nature and type of decisions it renders and the recruitment of Tax Court Judges.[13] Institutional ambiguity is generated by the contradiction between the Tax Court Law (Law No. 14/2002) and the Judicial Power Law (Law No. 48/2009), which designates the Tax Court as a component of the PTUN.[14]

Vertical and horizontal disharmony in the tax law system are the consequences of the inconsistency between the Tax Court Law, the Law on General Provisions and Tax Procedures (KUP), the Judicial Power Law, and other technical regulations (PMK, Regulation of the Director General of Taxes"). The absence of a distinct, rigorous, and systematic procedural law (lex specialis) for the Tax Court results in legal uncertainty, inconsistent application of legal principles, and procedural irregularities for taxpayers and the Directorate General of Taxes. This undermines the equity and legal certainty of dispute resolution. The suboptimality of the ideal dispute resolution mechanism in a country based on the rule of law is also reflected in this condition, raising concerns about guaranteeing objectivity and justice for taxpayers. Consequently, it is imperative to conduct a more comprehensive examination of a variety of alternative dispute resolutions that not only address the requirement for procedural efficiency but also ensure independence, accountability, and substantive justice in practice.[15]

Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution. Therefore, to mitigate the escalation of conflicts and enhance their relationship with taxpayers, international tax authorities are inclined to implement various initiatives, including alternative dispute resolution (ADR) procedures, to resolve tax disputes without litigation.[16] The primary objective of the ADR process is to facilitate the earlier resolution of tax disputes or the entire prevention of tax disputes. This approach offers both parties increased certainty and the capacity to allocate limited resources.[17] Additionally, the transition to alternative dispute resolution (ADR) processes in tax dispute resolution is generally consistent with a shift in the culture of tax authorities from "command and control" to one intended to foster trust, support, and respect within the community. This shift in culture, in turn, promotes voluntary compliance.[18]

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[12] Rustian Mushawirya, 'The Tax Dispute Settlement According To Justice And Court System In Indonesia', *Nurani Hukum*, 2.2 (2020), 62 <https://doi.org/10.51825/nhk.v2i2.6549>.

[13] Burhanudin Yusuf, Feriadi, and Anita Indriawati, 'Tax Disputes in the Digital Era: Challenges and Opportunities Toward Legal Certainty', *Jurnal Dedikasi Hukum*, 4.2 (2024), 170–86 <https://doi.org/10.22219/jdh.v4i2.35351>.

[14] Farel Rifandanu, 'Implikasi Putusan Mahkamah Konstitusi Nomor 26/PUU-XXI/2023 Terhadap Pembinaan Pengadilan Pajak', *Amnesti: Jurnal Hukum*, 6.1 (2024), 145–61 <https://doi.org/10.37729/amnesti.v6i1.3270>.

[15] Agus P. Priyono Henry DP Sinaga, 'IS ADMINISTRATIVE JUSTICE A PROBLEM-SOLVING OF TAX DISPUTE?', *Jurnal Tax Law and Policy*, 1.1 (2022), 54–66 <https://doi.org/10.56282/jtlp.v1i1.63>.

[16] ARDIANSYAH ARDIANSYAH, 'COMPARATIVE STUDY OF THE IMPLEMENTATION OF ALTERNATIVE DISPUTES RESOLUTION (ADR) IN TAX AND CUSTOMS DISPUTES IN INDONESIA', *Journal Evidence Of Law*, 1.1 (2022), 55–69 <https://doi.org/10.59066/jel.v1i1.15>.

[17] Muhammad Ghifari, 'Alternatif Dispute Resolution to Reduce Costs, Energy, And Time Issued by DJP Taxpayer or Dispute Settlement in Taxation', *KnE Social Sciences*, 2024 <https://doi.org/10.18502/kss.v8i21.14821>.

[18] I Nyoman Wara, Dumaria Simanjuntak, and Reny Yemimalina Sinaga, 'Conflict of Interests in Declaring State/Regional Loss of Tax Income in Indonesia', *Jurnal Tata Kelola Dan Akuntabilitas Keuangan Negara*, 9.2 (2023), 349–66 <https://doi.org/10.28986/jtaken.v9i2.1340>.

Additionally, the tax authorities' implementation of the ADR process is consistent with the dispute systems design (DSD) concept, which is a deliberate endeavor to enhance how organizations manage conflicts by organizing dispute resolution processes clearly and strategically. Consequently, the utilization of ADR to improve the efficiency and effectiveness of tax administration and to facilitate the resolution of disputes with tax authorities or to alleviate concerns is the fundamental objective of DSD, which is to reduce the costs of dispute resolution and to produce more durable and satisfactory resolutions.[19]

The efficiency and fairness of tax dispute resolution can be substantially enhanced by implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation. Mediation has been effectively implemented in Australia, Russia, and the United States. Its implementation in Indonesia can potentially reduce the backlog of cases and provide a more cost-effective solution for taxpayers. The U.S. Tax Court, a specialized tax court not affiliated with the IRS (tax authority), already exists in the United States. Consequently, taxpayers can register a lawsuit with the Tax Court before paying taxes, allowing them to access justice without the initial financial burden. An ADR system that is implemented efficiently and is beneficial to taxpayers can expedite settlement without placing an undue burden on the court. The Administrative Appellate Tribunal (AAT) is an independent an independent non-judicial administrative appeal forum in Australia with significant authority. The ATO (Australian Tax Office) also facilitates mediation and informal settlement as a first step, and the Tax Ombudsman (Inspector-General of Taxation) supervises tax dispute resolution services. The accountability and public trust are fortified by the participation of this independent supervisory authority (ombudsman). The majority of tax disputes in Russia are initially resolved through administrative review at the tax authority (Federal Tax Service). Russia has demonstrated advancements in the efficacy and modernization of dispute resolution, particularly through the implementation of legal technology (e-justice), even though the system is not as autonomous as those of the United States or Australia.

Given the successful implementation of various alternative dispute-resolution methods in numerous countries, conducting a more comprehensive analysis of the techniques used in previous studies is crucial. The Tax Court Law is less appropriate in providing legal protection for tax dispute resolution than the generally applicable judicial system, as previous research by Rustian Mushawirya demonstrated that the tax dispute resolution mechanism is, in principle, not by the generally applicable judicial system. The Ministry of Finance's recruitment of Tax Court judges and the process of organizational, financial, and administrative development of the Tax Court can present an opportunity for tax officials to intervene in the tax dispute process. This directly opposes Article 11 paragraphs (1) and (2) of Law Number 35 of 1999, which mandates and confirms that the Supreme Court is responsible for the judicial environment's organizational, financial, and administrative development.[20] Subsequently, Heriantonius Silalahi et al. conducted research demonstrating tax professionals' critical role in reducing risk, assuring compliance, and navigating intricate legal frameworks. Their cooperation is essential for the reduction of financial penalties, the expedition of dispute resolution, and the enhancement of taxpayer confidence. A more effective tax administration system can be achieved by enhancing the synergy between these professions, promoting fairness and legal certainty, and increasing taxpayer confidence in the Indonesian tax regime.[21] Furthermore, Khoirul Hidayah's investigation identified social issues associated with the growing number of unresolved tax collections at the Tax Court. In this investigation, mediation was implemented as an alternative dispute resolution method for tax settlements in Indonesia. Administrative and legal efforts are anticipated to facilitate the rapid and courteous resolution of disputes through mediation. Additionally, mediation is expected to enhance the relationship between taxpayers and the Directorate General of Taxes and increase the voluntary compliance of taxpayers following the conflict. He also stated that Indonesia has not regulated mediation in the resolution of

[19] . Noviansyah and Sabela Gayo, 'The Use of Mediation as Alternative Tax Dispute Resolution', *International Journal of Research and Review*, 10.1 (2023), 133–43 <https://doi.org/10.52403/ijrr.20230114>.

[20] Mushawirya.

[21] Heriantonius Silalahi and others, 'The Influence of Tax Dispute Resolution Mechanisms: Legal Contributions of Tax Consultants and Tax Attorneys in Indonesia', *Ilomata International Journal of Tax and Accounting*, 6.1 (2025), 25–52 <https://doi.org/10.61194/ijtc.v6i1.1597>.

tax settlements. Consequently, modifications must be made to the Law on General Provisions and Tax Procedures to establish mediation regulations.[22]

Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General Tax Provisions, and the effect they have on the independence of tax court institutions.[23] Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General Tax Provisions, and the effect they have on the independence of tax court institutions.

## 2. Research Method

This research is normative legal research, which employs legal, conceptual, comparative, and Methods of Systematic Literature Review. Systematic literature review is a methodology that entails examining and interpreting a collection of pertinent literature, including previously published journals, emphasizing the theory being discussed within a specific context.[24] Efforts to resolve tax settlements in Indonesia, as regulated by the Tax Administration Law and the Tax Court Law, are examined in this study using the regulatory-statutory approach. The cooperative paradigm recommended by the OECD is employed to investigate the concept of tax settlement in the conceptual approach. The tax settlement models employed by the United States, Australia, and Russia are summarized in the comparative approach.[25] Legal, conceptual, case, analytical, and philosophical methodologies are implemented. The document study method is the selected data collection strategy for this investigation.[26] The data utilized is secondary data derived from literature investigations, primary legal materials, including legal theories and laws. Books, articles, and research findings comprise secondary legal materials in addition to conducting additional research on primary legal materials from a theoretical perspective and examining their practical application.[27] Indonesia's tax disputes are resolved through various legal sources, including international practices, legal principles, and laws and regulations. The researcher initially details the administration and regulation of tax settlements in the United States, Australia, and Russia using the cooperative paradigm in the discussion. Then, the researcher employs qualitative legal

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[22] Hidayah.
[23] Heru Setiawan and others, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263–98 <https://doi.org/10.53955/jhcls.v4i2.263>.
[24] Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 <https://doi.org/10.53955/jhcls.v4i3.396>.
[25] Aditia Syaprillah and Fuad Shehab Shyyab, 'Legislative Framework for Decentralized Administration in Addressing River Pollution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 55–77 <https://doi.org/10.53955/jsderi.v3i1.39>.
[26] Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas, and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 <https://doi.org/10.53955/jsderi.v2i3.48>.
[27] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 <https://doi.org/10.22219/ljih.v30i1.20764>.

methods to conduct identification and analysis. The researcher employs the legal fiction method to identify relevant regulations.[28]

## 3. Results and Discussion

### 3.1. Tax Dispute Resolution System in Indonesia

Tax disputes in Indonesia result from disagreements between tax authorities and taxpayers regarding tax obligations. The Tax Court is a significant player in resolving these disputes, which involve a combination of administrative and judicial processes. The Indonesian Tax Court's practice of resolving tax disputes is based on or still employs Law Number 14 of 2002, even though the Tax Court's position has been updated. The Tax Court is a Special Court within the State Administrative Court, as defined by Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. The change in its position undoubtedly impacts the litigation procedures in the Tax Court (its Procedural Law). In reality, there has been no subsequent action, so the resolution of tax disputes continues to be governed by Law Number 14 of 2002.[29]

The legal remedy of Judicial Review to the Supreme Court is regulated in Chapter IV Article 34 to Article 42 of Law Number 14 of 2002, which also governs the resolution of tax disputes through the Tax Court. A decision is the subject of a lawsuit or appeal letter. The present Tax Court is a historical advance over the Tax Dispute Resolution Agency (BPSP), the previous Tax Court institution. The Tax Court lodged a legal remedy of Judicial Review with the Supreme Court to address the deficiencies and weaknesses of the BPSP, particularly the implementation of the judicial system with tiered examinations to the Supreme Court.[30] The Tax Court is responsible for examining and deciding on disputes over objection decisions in resolving tax disputes unless otherwise specified by applicable laws and regulations. The Tax Court conducts an examination and determination of disputes concerning the implementation of tax collection on Correction Decisions or other Decisions in a lawsuit, as outlined in Article 23, Paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures. This law has been amended numerous times, most recently by Law Number 16 of 2000, and is subject to all relevant tax laws and regulations.[31]

In Indonesia, the resolution of tax disputes is subject to various channels and institutions, including the administrative objection process, litigation filed with the Tax Court, and judicial review proceedings before the Supreme Court. The settlement of tax disputes acknowledges two mechanisms: dispute resolution through administrative efforts, specifically through the objection institution, and through the judicial institution, the Tax Court. The formal regulations in tax law clearly explain the provisions about the institutions responsible for resolving tax disputes.[32]

The principle of judicial independence governs the Tax Court, even though the Supreme Court and the Ministry of Finance historically supervise its organizational, administrative, and financial management. Nevertheless, the Tax Court is now entirely under the supervision of the Supreme Court due to Constitutional Court Decision Number 26/PUU-XXI/2023. This has resulted in an increase in the court's independence and impartiality in resolving tax disputes. The Tax Court's

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[28] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 <https://doi.org/10.18502/kss.v8i21.14713>.

[29] Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 <https://doi.org/10.1063/5.0202042>.

[30] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Examining the Factors That Affect the Loss of Tax Disputes in the Tax Court', *GATR Accounting and Finance Review*, 7.2 (2022), 97–112 <https://doi.org/10.35609/afr.2022.7.2(3)>.

[31] Maria R. U. D. Tambunan and Gabriel Muara Thobias Silalahi, 'Article: Resolving Conflicts Between Production Sharing Contracts and Tax Treaties in Indonesia', *Intertax*, 52.Issue 2 (2024), 154–62 <https://doi.org/10.54648/TAXI2024022>.

[32] Nataša Žunić Kovačević, 'Effectiveness of Tax Dispute Resolution Mechanisms – The Impact of the European Legal Framework on National Jurisdiction', *Law, Identity and Values*, 4.1 (2024), 271–91 <https://doi.org/10.55073/2024.1.271-291>.

structure has been affected by a variety of reforms, including the transfer of organizational, administrative, and financial authority from the Ministry of Finance to the Supreme Court by Constitutional Court Decision Number 26/PUU-XXI/2023.[33]

The stages of tax dispute resolution in Indonesia typically adhere to a series of formal steps by the relevant laws and regulations, which are specifically outlined in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law.[34] Administrative/objection, appeal, lawsuit, and judicial review are among the stages of tax dispute resolution. Without the court's involvement, the objection stage is resolved within the internal scope of the Directorate General of Taxes (DGT). Tax administration, which encompasses tax dispute resolution, is the responsibility of the Directorate General of Taxes (DGT) within the Ministry of Finance. Before they are submitted to the Tax Court, DGT manages objections and appeals.[35] The DGT is also involved in implementing alternative dispute resolution mechanisms, such as mediation, to facilitate the peaceful resolution of tax disputes. The objective is to offer taxpayers the chance to express their dissatisfaction with tax decisions through administrative channels before proceeding to the legal (judicial) process.[36]

The administrative stage/objection stage involves negotiations and mediation between tax authorities and taxpayers to establish a settlement agreement. If a settlement is not reached, taxpayers can appeal to the court or a special arbitration body designated to resolve the dispute. To enhance the efficacy of tax dispute resolution, it is crucial to establish a legal framework that is both transparent and unambiguous, as well as to establish an efficient and equitable process. The Tax Court is authorized to manage both litigation concerning tax collection and appeals against tax assessment decisions. The court's decision is legally binding and ensures legal certainty for tax authorities and taxpayers. Tax dispute resolution is a legal procedure designed to resolve disputes between tax authorities and taxpayers that arise concerning disagreements over tax obligations.[37]

The judicial process in the Tax Court is intended to be straightforward, efficient, and cost-effective. However, in practice, the process can be lengthy and intricate due to the complexity of tax disputes and the extensive number of cases.[38] However, One of the Tax Court's most significant challenges is the substantial number of unresolved cases. Due to the considerable increase in tax disputes, the Court has faced significant challenges in meeting the demand. This has led to delays in the resolution of cases, which can be discouraging for taxpayers and erode their trust in the tax system.[39] The tax court system in Indonesia is experiencing a significant backlog of cases, resulting in delays and increased costs for taxpayers seeking a resolution. The tax court's dual-guided system exacerbates the situation by impacting its independence and efficacy.[40]

In Indonesia, tax tribunals are subject to a dual guidance system, which involves the Supreme Court providing technical-judicial guidance and the Ministry of Finance providing organizational, financial, and administrative guidance. This dualism raises concerns regarding the independence of the tax tribunals, as it may result in conflicts of interest and bias in decision-making. Differing interpretations of tax laws and regulations and aggressive tax audit behavior frequently result in disputes. The tax court system lacks the specialized knowledge and consistent application of legal

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[33] Listanti.

[34] Reza Octavia Kusumaningtyas and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 <https://doi.org/10.53955/jsderi.v1i2.7>.

[35] Al Fadilla Yoga Brata and Rakotoarisoa Maminiaina Heritiana Sedera, 'The Implementing a Carbon Tax as a Means of Increasing Investment Value in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 39–50 <https://doi.org/10.53955/jsderi.v1i2.6>.

[36] Anis Muhamad, Ramlani Lina Sinaulan, and Khalimi Khalimi, 'MEDIASI SEBAGAI ALTERNATIF PENYELESAIAN SENGKETA PAJAK', *SENTRI: Jurnal Riset Ilmiah*, 2.11 (2023), 4667–76 <https://doi.org/10.55681/sentri.v2i11.1778>.

[37] Yi Li, 'Reform and Innovation of International Tax Dispute Resolution Mechanisms', *Beijing Law Review*, 15.03 (2024), 1143–57 <https://doi.org/10.4236/blr.2024.153069>.

[38] Dyah Nur Sasanti and Hetty Tri Kusuma Indah, 'Problematika Penyelesaian Sengketa Di Pengadilan Pajak Dalam Rangka Perwujudan Peradilan Sederhana, Cepat, Dan Biaya Ringan', *Reformasi Hukum*, 26.1 (2022), 21–38 <https://doi.org/10.46257/jrh.v26i1.256>.

[39] Hanifa, Arrisman, and Haryanto.

[40] Sari and Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court'.

principles necessary to address this complexity.[41] Mostly, case resolution is the primary objective of the tax courts' dispute resolution process instead of problem-solving. This leads to recurring disputes and fails to address the underlying causes of disputes between tax authorities and taxpayers.[42]

Currently, taxpayers must pay a portion of the disputed tax upfront, as the dispute resolution procedure is costly and protracted. The process is multifaceted and may require several years to conclude, encompassing objections, appeals, and reviews. In the interim, the Tax Court is exclusively situated in Jakarta, the capital, which presents logistical difficulties for taxpayers from other regions. This centralization leads to an increase in taxpayers' time and travel expenses, rendering the process more cumbersome and less accessible.[43]

In general, the Indonesian tax court system's systemic inefficiencies are predominantly the result of a combination of legal, administrative, and structural challenges. The intricate interactions between the tax court's organizational framework and the broader judicial and executive systems exacerbate these inefficiencies.[44] Administrative deficiencies, legal inconsistencies, and the tax court's distinctive position within the Indonesian legal framework all contribute to its operational inefficiencies. The tax court operates under a unique legal framework that excludes it from the traditional judicial hierarchy, resulting in a lack of integration with the broader judicial system. This separation leads to a lack of independence and conflicts of interest, as the tax court is not entirely under the jurisdiction of the Supreme Court and is instead influenced by the Ministry of Finance. Consequently, there is a risk of weak oversight and control.[45]

In summary, the substantial number of tax disputes significantly impacts the efficacy of the tax courts in Indonesia. The dual guidance system exacerbates these challenges and the dispute resolution process's high case volume, complexity, and inefficiencies. Nevertheless, potential reforms, including decentralization and alternative dispute-resolution mechanisms, could enhance the system's efficacy and accessibility.[46] Comprehensive legal and structural reforms are required to guarantee the independence and integration of the tax courts into the broader judicial system, which will result in substantial improvements. Furthermore, it will be essential to resolve these systemic inefficiencies by fostering public trust and compliance through effective administration and transparency.

### 3.2. Tax Dispute Resolution System in the United States, Australia, and Russia

It is crucial to compare Indonesia's tax dispute resolution mechanisms with those in the United States, Australia, and Russia, as the three countries represent differing legal systems. This comparison offers a comprehensive perspective on the development of reforms. The U.S. Tax Court is an independent tax court that effectively assures access to justice without an initial financial burden for taxpayers, as the United States relies on its standard law system. Australia employs a hybrid approach that emphasizes alternative dispute resolution (ADR) through institutions like the Administrative Appeals Tribunal and the Tax Ombudsman. This approach enables the expeditious resolution of disputes outside of the formal court process. In the interim, Russia, a nation with a

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[41] Maria R.U.D. Tambunan, 'Transfer Pricing Settlement in Indonesia: A Note for Tax Authority, Tax Court, and Taxpayers Based on the Tax Court Decisions', *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi Dan Organisasi*, 29.2 (2022) <https://doi.org/10.20476/jbb.v29i2.1306>.

[42] Henry DP Sinaga.

[43] R. O. Fatianov, 'THE PRINCIPLES OF TAX DISPUTE RESOLUTION', *Juris Europensis Scientia*, 5, 2023, 75–78 <https://doi.org/10.32782/chern.v5.2023.15>.

[44] Dharma Setiawan Negara and others, 'REORGANIZATION OF THE TAX COURT WITHIN THE STATE ADMINISTRATIVE COURT POST CONSTITUTIONAL COURT DECISION NO 26/PUU-XXI/2023', *IBLAM LAW REVIEW*, 3.2 (2023), 234–41 <https://doi.org/10.52249/ilr.v3i2.323>.

[45] Nafis Dwi Kartiko and Agustin Widjiastuti, 'Reducing Socio-Economic Disparities in Indonesia: Strengthening the Taxation Sector in Indonesia', *Activa Yuris: Jurnal Hukum*, 3.1 (2023) <https://doi.org/10.25273/ay.v3i1.15912>.

[46] Dinda Agustin Wulandari, Abdul Kadir Jaelani, and Hilaire Tegnan, 'Income Tax Regulations for Child Content Creators of TikTok Platform: Inefficacy of Indonesian Legal Frameworks', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 169–91 <https://doi.org/10.53955/jsderi.v2i2.35>.

robust civil law tradition, has exhibited efficacy in modernizing the legal system through digital technology and implementing internal administrative resolution mechanisms.[47]

The tax system in the United States is typically self-assessed. A taxpayer's tax liability is self-assessed when they submit a tax return. The Internal Revenue Service (IRS) employs a variety of mechanisms to promote self-assessment, such as penalties for failure to file and subpoenas. Specific facts are typically reported in tax returns, which are used to determine the tax liability and the tax calculation. This self-assessment remains essentially unaltered. However, tax returns are annually chosen for auditing based on a computer assessment process, inconsistency with other related tax returns, or at random. Additionally, numerous substantial corporations undergo routine audits. The IRS suggests an adjustment if it disputes a taxpayer's self-assessment. [48] The tax dispute resolution system in the United States is distinguished by a multilayered, intricate structure that prioritizes independence, specialization, and a combination of formal and informal mechanisms. The system is intended to facilitate the timely resolution of disputes while guaranteeing the decision-making process's impartiality and expertise.[49]

The IRS examination (or audit) procedure is the primary mechanism by which tax disputes in the United States are typically initiated. A taxpayer can request a meeting or telephone conference with the IRS examiner and/or supervisor if they disagree with any or all of the IRS's findings during the examination process. A fragmented and decentralized system that encompasses both public and private mechanisms is the hallmark of the tax dispute resolution system in the United States. The nature of the dispute, the parties involved, and the specific legal framework in force are all factors that influence this system.[50]

The United States employs a combination of litigation, arbitration, and mediation to resolve tax disputes, with a growing trend toward privatized dispute resolution methods. This method is designed to offer efficiency and adaptability but poses difficulties regarding accessibility and consistency. Several administrative requirements must be met before the IRS can assess additional tax or begin collecting it. The IRS must issue a Notice of Deficiency and wait 90 days for the taxpayer to file a petition with the US Tax Court or, if the taxpayer elects to do so, until the litigation is ultimately resolved to assess tax. The IRS will initially issue a Notice of Proposed Adjustment (NOPA) if the IRS disputes a taxpayer's reported tax liability. The taxpayer is generally granted 30 days to respond to the NOPA, although it is not mandatory. The taxpayer may sign and return the NOPA if they concur with the adjustment. Subsequently, they may pay the tax due upon assessing their tax liability. The IRS typically provides taxpayers with a 30-day letter and Revenue Agent Report to request a meeting with the IRS Independent Appeals Office (Appeals) to protest the adjustment if the taxpayer disagrees with the NOPA. A Notice of Deficiency will be issued to the taxpayer if they opt not to appeal.[51]

Appeals may either rescind the adjustment, reduce the proposed tax liability by the settlement, or maintain the adjustment in its entirety if the taxpayer appeals. The taxpayer is obligated to pay the tax due upon obtaining the assessment of the tax liability if the taxpayer concurs with the Appeals resolution. A Notice of Deficiency will be issued to the taxpayer if the Appeals resolution is unacceptable. The taxpayer has 90 days to either concur with the IRS's assessment of the deficiency or request a redetermination from the Tax Court following the issuance of the Notice of Deficiency. The IRS is prohibited from assessing additional tax for 90 days unless the taxpayer consents to the assessment. The taxpayer may still petition for a refund in court if the taxpayer agrees to the

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[47] Iswantoro Iswantoro, Saparwadi Saparwadi, and Devi Triasari, 'The Role of District Governments in Handling Damage to National Roads in the Regional Autonomy', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 20–34 <https://doi.org/10.53955/jsderi.v2i1.22>.

[48] Ruwaidah Afiyati and others, 'Tax Dispute Settlement Mediation Arrangements in the Future Tax Court', *International Journal of Research in Business and Social Science (2147- 4478)*, 11.5 (2022), 503–11 <https://doi.org/10.20525/ijrbs.v11i5.1867>.

[49] Defi Defi, 'International Tax Dispute Resolution through Mutual Agreement Procedure in Indonesia: Past, Present, and Future', *Educoretax*, 4.9 (2024), 1087–1106 <https://doi.org/10.54957/educoretax.v4i9.1055>.

[50] Ariel C. Avgar and others, 'A Fragmented and Heavily Privatized Dispute Resolution System: The United States', *Industrial Relations Journal*, 54.4–5 (2023), 304–20 <https://doi.org/10.1111/irj.12409>.

[51] E.B. Luparev and A.V. Shvets, 'US Tax Dispute Resolution System: What Can Be Borrowed for Russia?', *Law Gazette of the Kuban State University*, 3, 2022, 44–49 <https://doi.org/10.31429/20785836-14-3-44-49>.

evaluation and pays the tax. Additionally, the IRS is prohibited from imposing additional taxes until the litigation has been finalized, including after an appeal to a higher court, if the taxpayer exercises their right to petition the Tax Court.[52]

Tax fraud may be resolved through civil or criminal proceedings. An IRS examiner will ascertain whether there is an element of tax fraud and, if so, whether the taxpayer may have committed criminal tax evasion during an audit. The examiner will consult with a special agent in the IRS Division of Criminal Investigation if they suspect a criminal element. The agent will evaluate the case and, if necessary, refer it to the Department of Justice for prosecution. The IRS will postpone the civil audit until the criminal case is resolved if the government elects to prosecute. The IRS will determine whether to impose a civil fraud penalty of 75% at that time, irrespective of whether the government has charged a criminal case. The IRS will prove the penalty if the taxpayer contests it in court.[53]

Taxpayers can challenge their tax liability through the IRS Independent Office of Appeals (Appeals), the courts, or both to resolve tax disputes. While the IRS Appeals division is a component of the IRS, it is distinct from the IRS examination and collection divisions. The Appeals process is less formal and less expensive than the courts, which is why taxpayers may prefer to seek relief through Appeals before appealing to the courts. Taxpayers need to be aware that they do not relinquish their right to appeal to a court by submitting an appeal (or not filing one).[54]

Upon completing an audit, taxpayers are entitled to appeal the deficiencies identified through administrative or judicial processes (or both). Before pursuing legal remedies, taxpayers are not required to seek an administrative resolution with the IRS Independent Appeals Office (Appeals). Nevertheless, the potential for a more rapid and cost-effective resolution in Appeals is a compelling alternative. Taxpayers may elect to settle the disputed liability and pursue an appeal due to the ongoing accrual of interest and penalties during the appeal process (again, both administratively and judicially). If they fail to repay the liability, the taxpayer cannot appeal the disputed liability administratively or to the US Tax Court. If the taxpayer prepays the disputed liability, they can appeal the determination to the US Court of Federal Claims or any US District Court with appellate jurisdiction. If the taxpayer is dissatisfied with the court's decision, they have the additional right to appeal to any US Court of Appeals with jurisdiction. Lastly, the Court of Appeals may petition the United States Supreme Court to consider the case if the taxpayer disagrees with the US court's decision. Nevertheless, petitions of this nature are infrequently granted by the United States Supreme Court.[55]

Alternative dispute resolution is unavailable during the examination phase. If disagreements arise following the examination and the case is transmitted to the IRS Independent Appeals Office (Appeals), numerous alternatives for mediation are not part of the standard Appeals process. Fast Track Mediation and Fast Track Settlement (FTS) allow small and large business taxpayers to resolve factual and legal disputes during the IRS examination. The IRS Appeals Department serves as a mediator. The standard Appeals option remains accessible if the case is not resolved. The Fast Track Appeals process is also designed to offer expedited access to an Appeals officer who serves as a mediator without precluding the regular Appeals option if a settlement is not reached. The taxpayer can request post-appeal mediation if a settlement is not reached during the regular appeals process. In this process, mediators selected by the taxpayer and Appeals attempt to facilitate a settlement. However, this option is unavailable if the taxpayer has used FTS before the Appeals

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[52] 'Domestic Dispute Resolution Mechanisms', in *United Nations Handbook on the Avoidance and Resolution of Tax Disputes* (United Nations, 2023), pp. 71–107 <https://doi.org/10.18356/9789210001151c005>.

[53] Kimberly A. Clausing, 'The US Perspective on International Tax Law', in *The Oxford Handbook of International Tax Law* (Oxford University Press, 2023), pp. 799–820 <https://doi.org/10.1093/oxfordhb/9780192897688.013.47>.

[54] Hyun Cheol Jun, 'A Study on the Improvement of Tax Dispute Proceedings Focused on Comparison of the Legal Systems in the U.S', *Jeonbuk Law Review*, 72 (2023), 193–219 <https://doi.org/10.56544/JBLR.2023.09.72.193>.

[55] Avgar and others.

process. Although binding arbitration is not an option in an IRS examination or appeals, it is available in litigation and non-binding mediation.[56]

Effective ADR may advantageously affect tax compliance and tax administration. Furthermore, ADR has been broadly embraced by enterprises, federal agencies, and tax authorities in specific foreign countries. Similarly, the Internal Revenue Service (IRS) has acknowledged that ADR can benefit its operations. Additionally, the IRS has expressed the belief that specific components of ADR can be effectively employed to promote the resolution of disputes at an early stage and shorten the duration from filing a return to the final resolution of a dispute.[57] Nevertheless, the IRS fails to capitalize on this potentially advantageous instrument and implements ADR in an unappealing manner to taxpayers. For instance, taxpayers and their representatives may question the impartiality, cost-effectiveness, and accessibility of the ADR procedure. Due to these factors, taxpayers may be inclined to embrace ADR opportunities within the IRS. A more efficient and cooperative approach that could benefit Indonesia to Indonesia is the U.S. model, which emphasizes alternative dispute resolution (ADR) methods such as mediation and arbitration. Indonesia could enhance its tax dispute resolution process, reduce the accumulation of cases, and cultivate a more collaborative relationship between taxpayers and tax authorities by implementing a comparable approach. This transition is essential for Indonesia to ensure that it is by international best practices and that the tax system is fair and efficient.[58]

Most tax disputes in the United States are still resolved through formal processes in the Tax Court or the IRS Office of Appeals, despite the growing popularity of ADR. ADR is implemented in specific circumstances, particularly when both parties desire a resolution that is expedited and less costly. The US Tax Court has several substantial advantages over the Indonesian Tax Court. One of the primary benefits is the significantly increased level of institutional independence. The US Tax Court is an autonomous judicial institution directly appointed by the President with the Senate's sanction, without the involvement of tax authorities.[59] This ensures objectivity and neutrality in dispute resolution. Conversely, the Indonesian Tax Court continues to be administered financially and organizationally by the Ministry of Finance, which may result in a conflict of interest. In addition, the United States system allows taxpayers to submit a dispute with the Tax Court before paying the disputed tax, unlike Indonesia, which typically necessitates payment in advance as a prerequisite for appeal.[60]

The US Tax Court has implemented a contemporary and transparent legal framework, encompassing electronic systems for filing and proceedings. In contrast, Indonesia continues to encounter constraints in this regard. Furthermore, the Ministry of Finance continues to administer, finance, and organize the US Tax Court, which may result in a conflict of interest. The Small Tax Case program, which is not yet available in the Indonesian system, is an innovation that the Tax Court offers to expedite the resolution of small-value tax disputes. These advantages demonstrate that the tax court system in the United States is more capable of preserving taxpayer rights, enhancing the accessibility of justice, and promoting efficiency in the tax dispute resolution process.[61]

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[56] Adinda Destaloka Putri Permatasari, 'Comparison Of Arbitration Dispute Resolution In Business Between Indonesia And United States Of America', *Journal of Private and Commercial Law*, 6.2 (2022), 183–200 <https://doi.org/10.15294/jpcl.v6i2.30289>.

[57] Dinda Anna Zatika, 'The Principle of Justice in the Settlement of Tax Disputes Based in Tax Law in Indonesia', *Formosa Journal of Multidisciplinary Research*, 2.8 (2023), 1403–16 <https://doi.org/10.55927/fjmr.v2i8.5738>.

[58] Defi.

[59] Jan Thomas Martini and others, 'Incentive Effects of Tax Transparency: Does Country-by-Country Reporting Call for Arbitration?', *Journal of Accounting and Public Policy*, 49 (2025), 107278 <https://doi.org/10.1016/j.jaccpubpol.2024.107278>.

[60] Thomas Tørsløv, Ludvig Wier, and Gabriel Zucman, 'Externalities in International Tax Enforcement: Theory and Evidence', *American Economic Journal: Economic Policy*, 15.2 (2023), 497–525 <https://doi.org/10.1257/pol.20200200>.

[61] Xixi Zhang, 'Tax Arbitration and Foreign Direct Investments: A Comparison between Developed and Developing Countries', *SSRN Electronic Journal*, 2023 <https://doi.org/10.2139/ssrn.4589031>.

In contrast to the US, which predominantly resolves disputes through tax courts, Australia has adopted a mixed legal system (common law + strong administrative system) with a very advanced ADR (Alternative Dispute Resolution) approach. The Australian Taxation Office (ATO) initiated alternative dispute resolution (ADR) in 2013 to resolve tax disputes. This process encompasses mediation, negotiation, case discussion, conciliation, and evaluation by a neutral party. Resolving tax disputes in Australia requires a multifaceted approach that encompasses both internal and external mechanisms. The Australian Taxation Office (ATO) offers an internal review process; however, external avenues exist for more intricate or unresolved matters, including the Administrative Appeals Tribunal (AAT) and the courts.[62]

The Australian Taxation Office (ATO) has implemented a strategy and significant modifications to Australia's tax dispute resolution culture. This was implemented in response to the OECD's recommendations to enhance relationships with taxpayers. The ATO subsequently issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes, by the recommendations. The regulation specifies the principles and guidelines for the implementation of ADR. The regulation has simplified the process of resolving tax disputes for taxpayers, enabling them to do so in a cost-effective and timely manner.[63]

The ATO's primary objective in dispute resolution is to regularly plan for dispute resolution and resolve disputes through dispute policies. The Australian Taxation Office is dedicated to preventing and resolving conflicts in a timely, cost-effective, and straightforward manner while ensuring that the process is conducted politely and equitably. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online, which Tania Sourdin and Alan L. Shanks lead, assessed ADR at the Australian Taxation Office. The evaluation results indicate that ADR can reduce costs and save time. HMRC's evaluation results, which were obtained through investigations and numerous observations, have demonstrated that dispute resolution through mediation is a practical approach to resolving tax dispute deadlocks in the United States.[64]

Taxpayers can escalate disputes not resolved internally to the AAT or the courts. The AAT is frequently perceived as a more accessible alternative for taxpayers and offers a less formal setting than the courts. Taxpayers may be discouraged from pursuing court litigation unless necessary, as it can be costly and time-consuming despite providing a definitive resolution. Mediation has been integrated into the procedures of the AAT and the Federal Court of Australia, leveraging international best practices to enhance the efficacy of tax dispute resolution. Research has demonstrated that ADR can improve the perceptions of fairness and fair procedures, which is essential for all parties involved in adopting outcomes.[65]

The approach to resolving tax disputes differs substantially between the Administrative Appeals Tribunal (AAT) and court litigation. In contrast to the adversarial nature of court litigation, the AAT offers a non-judicial administrative mechanism for reviewing decisions, emphasizing substantive review. This distinction is crucial for comprehending the procedural, accessibility, and efficiency disparities between the two systems. The AAT prioritizes informality and adaptability, frequently permitting a more inquisitorial approach in which the court actively investigates the facts of the case. This starkly contrasts the adversarial nature of court proceedings, in which the parties present their case to a judge who serves as an impartial arbiter.[66]

Additionally, mediation has been demonstrated to decrease the time and expenses necessary to resolve tax disputes, particularly for small and medium-sized individual taxpayers. Mediation can reduce the dispute resolution process from the standard 8-23 months to 61 days, a two-month reduction. In large and complex cases, mediation can also decrease the time and costs of resolving

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[62] Hidayah.

[63] Saka Muhammed Olokooba, 'Resolving Tax Disputes Through the Alternative Dispute Resolution (ADR) Mechanisms', in *Nigerian Taxation* (Singapore: Springer Singapore, 2019), pp. 141–46 <https://doi.org/10.1007/978-981-13-2607-3_12>.

[64] M. Kobetsky, 'The Status of the OECD Transfer Pricing Guidelines in the Post-BEPS Dynamic', *International Tax Studies*, 3.2 (2020) <https://doi.org/10.59403/2rpcabz>.

[65] Afiyati and others.

[66] Illia YURIICHUK, 'Administrative Appeal as an Out-Of-Court Procedure for the Protection of the Rights of Individuals and Legal Entities', *European Journal of Law and Public Administration*, 6.1 (2019), 98–109 <https://doi.org/10.18662/eljpa/67>.

tax disputes. Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000.[67]

In contrast to the Indonesian system, tax dispute resolution in Australia offers numerous substantial benefits. Australia provides a diverse array of dispute resolution pathways that are more flexible and taxpayer-friendly, including administrative and alternative mechanisms, which do not always require a formal litigation process to conclude. An independent and non-judicial institution, the Administrative Appeals Tribunal (AAT), is one of the advantages. It enables the resolution of tax disputes more efficiently, straightforwardly, and cost-effectively than formal tribunals. Furthermore, the Australian Taxation Office (ATO) actively promotes the use of Alternative Dispute Resolution (ADR) methods, including mediation and negotiation, before the formal stage of dispute resolution. This approach expedites the resolution process without compromising the relationship between the tax authorities and taxpayers.[68] Additionally, the Inspector-General of Taxation (Tax Ombudsman) in Australia is an independent supervisor of tax administration services, enabling taxpayers to file complaints regarding maladministration or injustice.[69] Conversely, Indonesia's tax dispute resolution system relies on the objection path, appeal to the Tax Court, and cassation to the Supreme Court. This approach is characterized by a protracted process, increased costs, and restrictions on settlement mechanisms that are not part of the litigation path. Furthermore, the accountability of tax dispute services is suboptimal in Indonesia due to the absence of an independent supervisory authority. Consequently, the Australian system is more progressive and focuses on substantive justice, legal certainty, and administrative efficiency in resolving tax disputes.

Although Australia has established a tax dispute resolution system that emphasizes the preservation of taxpayer rights, flexibility, and speed through administrative and alternative channels, it is also crucial to examine the approach taken by other countries, such as Russia, in managing their tax dispute resolution programs. Russia presents an alternative approach, demonstrating a commitment to modernization to enhance transparency and efficiency while exhibiting robust administrative characteristics.[70]

The administrative appeal procedure is the initial step in resolving tax disputes in Russia. Before engaging in court litigation, taxpayers dissatisfied with the tax authorities' decision must initially submit an appeal to the Russian Federal Tax Service (FTS). This pre-trial procedure is mandatory and is designed to alleviate court congestion by resolving disputes within the tax administration. An administrative appeal entails the submission of a formal complaint that includes the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission evaluated the case and issued a decision within one month, a timeframe that may be extended in the event of complex cases. The taxpayer has the option to pursue legal action if they are dissatisfied. Although administrative appeals offer a more expedited resolution, critics contend that tax authorities are inclined to prioritize their assessments, which diminishes the impartiality of the process. However, the administrative stage continues to be a critical component of tax dispute resolution, as it enables the resolution of numerous cases without the involvement of a judge.[71]

Alternative dispute resolution (ADR) mechanisms are becoming more widely acknowledged even though Russia has historically relied on administrative and judicial processes. Dispute resolution can be expedited, and costs can be reduced through alternative dispute resolution, encompassing mediation, conciliation, and arbitration. In Russia, mediation in tax disputes is still in its infancy and is primarily employed in corporate tax cases. The Government is investigating

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[67] Sandra Aulia, 'Comparative Studies of Tax Administration on Transfer Pricing', *Journal of Governance and Administrative Reform*, 5.1 (2024), 39–51 <https://doi.org/10.20473/jgar.v5i1.57398>.

[68] . and Gayo.

[69] Asherry Magalla and Joseph Augustine, 'The Law of Alternative Dispute Resolution in Tax Disputes in Tanzania A Lesson from Australia', *SSRN Electronic Journal*, 2021 <https://doi.org/10.2139/ssrn.4123370>.

[70] Evgeniya Vasilyeva, 'ON THE COLLECTION OF TAX DEBT FROM FINAL BENEFICIARIES IN RUSSIA', 2019 <https://doi.org/10.32008/NORDSCI2019/B2/V2/26>.

[71] Л.И. Гадельшина, 'LEGAL POSITIONS OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERA TION ON TAX DISPUTES BASED ON THE MATERIALS OF THE RESOLUTIONS OF 2020–2022', *Vestnik of Russian New University. Series 'Man and Society'*, 3, 2022, 40–52 <https://doi.org/10.18137/RNU.V9276.22.03.P.040>.

methods to incorporate ADR into the general resolution of tax disputes, utilizing models from countries such as the United States and the United Kingdom.[72]

In Russia, the resolution of tax disputes is a multifaceted process encompassing pre-trial settlement, judicial proceedings, and emerging alternative dispute resolution mechanisms. A comprehensive framework for resolving disputes between taxpayers and tax authorities is necessary due to the complexity of the Russian tax system and the necessity of preventing corruption and ensuring compliance.[73] This framework is in a perpetual state of evolution to enhance tax administration's efficiency, transparency, and impartiality. Tax dispute resolution and pre-trial investigation are indispensable for preventing malfeasance and resolving taxpayer complaints. These procedures facilitate the resolution of legal errors and regulatory conflicts without the necessity of enduring protracted court proceedings. The resolution of tax disputes is significantly influenced by the judicial protection of taxpayers' rights. Taxpayers have the right to appeal the actions of tax authorities by the regulations of the Russian Tax Code, specifically, Article 138, which delineates the process for such appeals.[74]

Indonesia should contemplate adopting specific components of the Russian tax dispute resolution system, as it provides a pragmatic, modern, and efficient administrative approach, particularly when managing large volumes of tax disputes. Administrative resolution through the Federal Tax Service is a mandatory initial measure in Russia before taxpayers bring disputes to court. This process promotes a more expeditious resolution, alleviates the burden on the courts, and offers taxpayers and tax authorities the chance to resolve conflicts without escalating them. Furthermore, Russia has effectively incorporated information technology into its tax dispute resolution system by employing administrative digitization and e-justice. This has resulted in the acceleration of workflows, the enhancement of transparency, and the enhancement of accessibility to the legal process for taxpayers. The adoption of a technology-based administrative model, such as the one in Russia, will expedite the dispute resolution process, enhance public services, and fortify taxpayers' confidence in the national tax system in Indonesia, which continues to grapple with the backlog of cases in the Tax Court and the constraints of the electronic judicial system.[75]

Alternative Dispute Resolution (ADR) for tax disputes has also begun to be implemented in Russia, albeit less comprehensively and popularly than in countries such as the United States or Australia. The tax justice system in Russia continues to rely largely on administrative processes that the Federal Tax Service oversees. However, to alleviate the burden on the courts and offer a more efficient and expedited alternative to dispute resolution, a variety of alternative dispute resolution (ADR) methods have been implemented. Russia has initiated the development of mediation and informal negotiations to administratively resolve tax disputes despite the absence of a dedicated ADR institution for tax disputes. These procedures enable taxpayers and tax authorities to negotiate agreements without protracted legal proceedings.[76]

In Russia, the Alternative Dispute Resolution (ADR) field is expanding to offer a more efficient and less adversarial method of resolving conflicts between tax authorities and taxpayers. ADR mechanisms, such as mediation and arbitration, are currently being investigated as alternatives to conventional litigation, which is frequently costly and protracted. Although challenges persist in their implementation and acceptance, the Russian legal framework progressively integrates these methods to enhance tax dispute resolution.[77]

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[72] A. Dontsova and E. Dolmatova, 'Judicial Protection of Taxpayer's Rights and Appeal Against Actions of Tax Authorities', *Bulletin of Science and Practice*, 6.1 (2020), 287–91 <https://doi.org/10.33619/2414-2948/50/35>.

[73] М.В.И. КАЛОМБО and others, 'CHALLENGES AND THREATS TO THE TAX SECURITY OF THE RUSSIAN FEDERATION: PROBLEMS AND SOLUTIONS', *Экономика и Предпринимательство*, 11(148), 2023, 321–24 <https://doi.org/10.34925/EIP.2022.148.11.061>.

[74] Dontsova and Dolmatova.

[75] Razela N. Denikaeva, Evgeniy A. Pervyshov, and Alina M. Dinaeva, 'TO THE QUESTION OF PRE-JUDICIAL SETTLEMENT OF TAX DISPUTES', *EKONOMIKA I UPRAVLENIE: PROBLEMY, RESHENIYA*, 10/1.130 (2022), 116–21 <https://doi.org/10.36871/ek.up.p.r.2022.10.01.016>.

[76] Olokooba.

[77] Sergey A. Poryvaev, 'Review of the Practice of Administrative Proceedings in Cases of Challenging Actions (Inaction) and Decisions of the Control and Supervisory Bodies on Bringing to Administrative

Tax mediation has been identified as a promising alternative dispute resolution (ADR) instrument despite its limited implementation. The legal framework for mediation in tax disputes is still being developed, and there are demands for more precise regulations to enhance its efficacy. The absence of a comprehensive legal framework that supports ADR in tax disputes in Russia is one of the primary obstacles to its implementation.[78] Furthermore, arbitration in Russia is regarded as a legal certainty and efficient process due to its seamless integration with international standards and practices. This is especially advantageous in international commercial disputes, where parties search for a dependable and predictable resolution process. Arbitration is also regarded as a legal certainty in Indonesia; however, it is more costly and time-consuming than mediation, another widely used dispute-resolution method in the country.

The resolution of tax disputes in Russia is frequently more flexible and expedited than the protracted litigation process in Indonesia, even though the ADR process is not as prevalent as in Australia. This not only alleviates the burden on the courts but also ensures that taxpayers have more equitable access to justice, particularly in the case of minor disputes. By implementing this strategy, Indonesia can enhance access to justice for taxpayers, mitigate tensions, and establish a more positive relationship between tax authorities and taxpayers. To guarantee that the dispute resolution process is conducted equitably and transparently, Russia has a Tax Ombudsman who serves as an independent monitor. Indonesia currently lacks a comparable institution to supervise the entire tax dispute resolution process. By adopting this model, the Indonesian tax system can be enhanced in terms of transparency, accountability, and public confidence in tax policy.

### 3.3. Indonesian Tax Dispute Resolution in a Cooperative Paradigm

In Indonesia, the regulation of tax dispute resolution has not demonstrated any cooperative paradigm approach through administrative, legal initiatives (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts). Based on the experience of resolving tax disputes in tax tribunals and enhancing relations following the disagreement, Indonesia can implement dispute resolution using ADR.[79] Legal discovery is necessary to resolve these legal issues because the law has been unable to address the growing number of tax disputes and the need for taxpayers to obtain dispute resolution promptly. Indonesia can employ legal fiction as an alternative method of legal discovery to ascertain changes in the law, given the widespread implementation of tax dispute resolution through the cooperative paradigm in numerous countries. The primary objective of dispute resolution research will be to resolve disputes through administrative and legal processes rather than litigation.[80]

After reviewing the General Guidelines and Tax Procedures Law, it is possible to utilize ADR as a form of mediation when submitting an objection. A Taxpayer may file a letter of objection to the Director General of Taxes if they are dissatisfied with the tax determination imposed on them or with a reduction/collection by a third party. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer.[81] The procedure for filing an objection is governed by the following regulations: Article 25, paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of

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Responsibility', *Rossijskoe Pravosudie*, 9, 2022, 79–90 <https://doi.org/10.37399/issn2072-909X.2022.9.79-90>.

[78] Mykhaylo Smokovych, 'CERTAIN ASPECTS OF ADMINISTRATIVE PROCEEDINGS IN THE FIELD OF RESOLVING TAX DISPUTES', *Slovo of the National School of Judges of Ukraine*, 1-2(38-39), 2022, 120–28 <https://doi.org/10.37566/2707-6849-2022-1-2(38-39)-11>.

[79] Gabriel Aliu, 'Modern International Tax Dispute Resolution – An African Perspective on the Mutual Agreement Procedure, Arbitration, and the Future', *Intertax*, 52.Issue 6/7 (2024), 476–92 <https://doi.org/10.54648/TAXI2024049>.

[80] Žunić Kovačević.

[81] Kamran Abdullah, 'Enhancing Tax Dispute Resolution: A Proposal for Amendments to the Income Tax Ordinance 2001 for Strengthening Alternative Dispute Resolution Mechanisms', *Indus Journal of Law and Social Sciences*, II.II (2023), 10–14 <https://doi.org/10.70540/ijlss.2023(II-II).02>.

the Minister of Finance of the Republic of Indonesia Number 9/PMK.03/2013 regarding Procedures for Filing Objections, and is amended by PMK RI Number 202/PMK.03/2015.

Implementing mediation as an alternative dispute resolution (ADR) in conjunction with administrative and legal initiatives can foster communication characterized by transparency and familiarity. A mutually beneficial solution will be achieved through mediation, which involves the involvement of a third party in negotiations to ensure that both parties are satisfied. The third party is trusted and independent, and they can provide decision-making considerations that will assist in the peaceful resolution of disputes. The mediator will be able to facilitate a transformative process and a rapid resolution through mandatory mediation. The parties will be able to participate in the early phases of ADR with mediation before the litigation process.[82]

Mediation is voluntary due to its association with taxpayer rights. A new system must be established to reconcile the government's and taxpayers' interests, specifically, the legislative constraints that must be surmounted. Opportunities for resolving tax disputes through mediation may arise due to a collaborative relationship between taxpayers and tax agencies. The settlement can be conducted respectfully if it is established.[83] ADR is anticipated to expedite the dispute resolution process, thereby decreasing the number of tax disputes in the tax court and minimizing taxpayer losses in terms of time and costs during the justice-seeking process. The KUP can be modified in the future to facilitate mediation arrangements.[84]

The author recommends that the Directorate General of Taxation (DGT) incorporate ADR into its plan as a cost-effective and expedient method of resolving tax disputes. The utilization of ADR processes as a less confrontational method of dispute resolution may lead to a more favorable perception of the Directorate General of Taxation (DGT), thereby increasing voluntary compliance and reducing the time required for dispute resolution.[85] Tax authorities, including the IRS, ATO, and FNS, as well as the literature, provide support for the utilization of interest-based ADR methods, including facilitation and mediation, as a method of dispute resolution.[86]

Therefore, the tax dispute resolution system has the potential to be incorporated into the Directorate General of Taxes (DGT) Future State initiative as a result of the Directorate General of Taxes (DGT) endeavors to facilitate the use of ADR as a fair and efficient dispute resolution method. In light of the applicable regulatory mechanisms, resolving tax disputes in Indonesia is a protracted process. The DGT can also demonstrate a continued commitment to dispute resolution by including its dispute resolution plan in the DGT Strategic Plan, as demonstrated by the IRS, ATO, and FNS. Furthermore, the IRS, ATO, and FNS have shown that the revenue authorities' highest echelons should support a dispute resolution culture. This entails a more significant role for senior revenue authority members, such as the DGT Commissioner and the Head of Appeals, in genuinely advocating for a culture of dispute resolution and ADR in speeches, presentations, and other interactions with professional associations and other key stakeholders. ADR provides the potential to resolve tax disputes in a less confrontational manner. Nevertheless, both parties must actively participate and resolve this issue. This implies that ADR is likely to be effective in the future.[87]

Structural reforms must be implemented to the Tax Court's position to enhance the impartiality and efficacy of tax dispute resolution in Indonesia. The dualism of management between the Ministry of Finance and the Supreme Court generates legal uncertainty and provides

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[82] Marco Greggi and Anna Miotto, 'The OECD Dispute Resolution System in Tax Controversies', *Laws*, 13.4 (2024), 45 <https://doi.org/10.3390/laws13040045>.
[83] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 <https://doi.org/10.53955/jsderi.v1i3.15>.
[84] A. Addamiano, 'Cross-Border Dispute Resolution in Tax Matters: A Luxembourg Overview', *European Taxation*, 64.11 (2024) <https://doi.org/10.59403/1yg8h57>.
[85] F Moosa, 'Review of the New Alternative Dispute Resolution Process for Tax Disputes', *Tydskrif Vir Die Suid-Afrikaanse Reg*, 2023.4 (2023), 660–80 <https://doi.org/10.47348/TSAR/2023/i4a4>.
[86] Giovanni Consolo, *Tax Dispute Resolution in the European Union* (Edward Elgar Publishing, 2024) <https://doi.org/10.4337/9781035343362>.
[87] Li.

an opportunity for executive intervention.[88] Indonesia must thoroughly integrate the Tax Court under the Supreme Court as part of the state administrative court, by the practices of the United States and Australia. This will involve preparing special procedural law (lex specialis) for tax disputes. The judicial institution must also recruit justices independently to ensure neutrality, professionalism, and accountability.[89]

Furthermore, Indonesia must implement alternative dispute resolution (ADR) mechanisms, including mediation and negotiation, within its tax system. The implementation of ADR, which has been demonstrated to be effective in Australia, the United States, and Russia, can expedite dispute resolution, alleviate the burden on the Tax Court, and establish a more harmonious relationship between taxpayers and tax authorities.[90] The General Provisions and Tax Procedures Law (UU KUP) must be amended to regulate ADR regulations expressly. This can be achieved by implementing mediation procedures before submitting cases to court. To enhance transparency and efficacy, the dispute resolution system must also expedite the implementation of digitalization.[91]

Establishing a Tax Ombudsman institution independent of the Directorate General of Taxation and the Ministry of Finance is essential for improving accountability in tax dispute resolution supervision. Adopting the Australian model, which includes an Inspector-General of Taxation, establishing a Tax Ombudsman in Indonesia will enhance the preservation of taxpayers' rights, foster voluntary compliance, and enhance public confidence in the tax system. This comprehensive reform will fortify Indonesia's status as a nation of law that prioritizes justice, legal certainty, and efficacy in resolving tax disputes.

## 4. Conclusion

The independence of the tax court is jeopardized by the disharmony between the Tax Court Law, the Judicial Power Law, and the KUP Law, which is prevented by tax settlement in Indonesia. In Indonesia, resolving tax settlements involves the following stages: approval, binding, lawsuits, and judicial review to the Supreme Court. The Tax Court's independence is enhanced by structural reform, as outlined in Constitutional Court Decision Number 26/PUU-XXI/2023. However, a conflict of interest was previously established by the dual guidance system from the Supreme Court and the Ministry of Finance. Significant challenges remain in resolving current tensions, including the accumulation of a large number of cases, the duration of the process, the high costs, and the centralization in Jakarta, which impedes accessibility. Furthermore, implementing the Alternative Dispute Resolution (ADR) mechanism in other nations, including the United States, Australia, and Russia, has demonstrated its capacity to enhance taxpayer trust, impartiality, and efficiency. Consequently, urgent reform is required to strengthen Indonesia's tax collection settlement system. This can be achieved by completely integrating the Tax Court into an independent judicial system under the Supreme Court, establishing a clear tax procedural legal framework, and adopting an ADR mechanism. Implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation, is necessary to facilitate the resolution process and alleviate the burden on the Tax Court in Indonesian tax settlement. Besides that, the Directorate General of Taxes (DGT) is advised to incorporate ADR into its strategic plan and redefine the Tax Court's role to ensure greater independence and integration with the Supreme Court. The accelerated

[88] Setiawan and others.
[89] Hizkia Ivan Nugroho, Novianti Lestari, and Rasji Rasji, 'Legal Protection Efforts for Taxpayers in the Tax Dispute Resolution Mechanism', *QISTINA: Jurnal Multidisiplin Indonesia*, 2.2 (2023), 839–45 <https://doi.org/10.57235/qistina.v2i2.811>.
[90] Jasna Voje, 'The Limits to the Participation of the Taxpayer in Tax Dispute Resolution Procedure Under the Dispute Resolution Directive', *Intertax*, 48.Issue 2 (2020), 157–76 <https://doi.org/10.54648/TAXI2020015>.
[91] Ehab Farah, 'Mandatory Arbitration of International Tax Disputes: A Solution in Search of a Problem', *Florida Tax Review*, 9.8 (2022) <https://doi.org/10.5744/ftr.2009.1008>.

implementation of ADR and digitalization will enhance the relationship between tax authorities and taxpayers and strengthen a fair and efficient tax system by increasing transparency and accountability.

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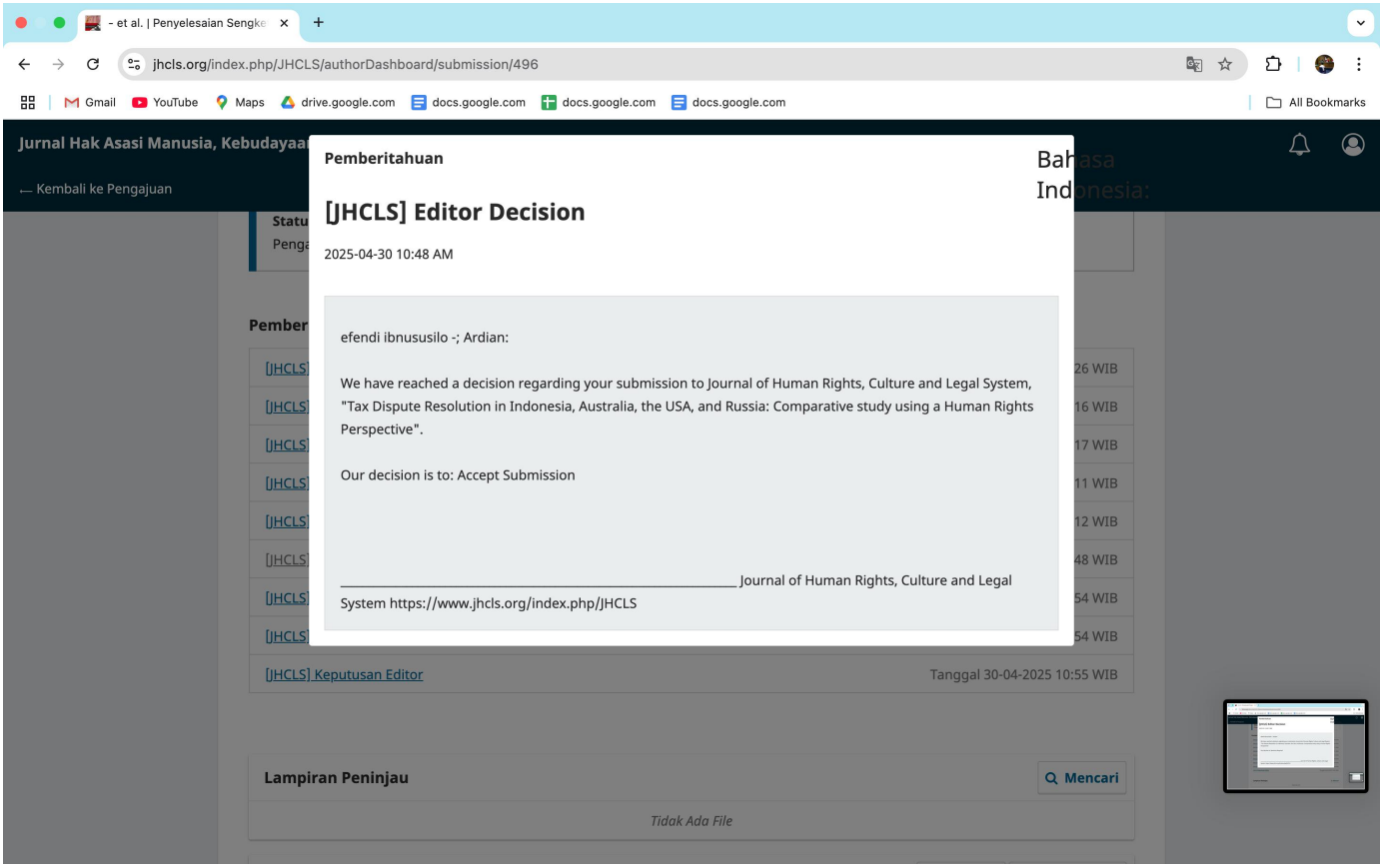

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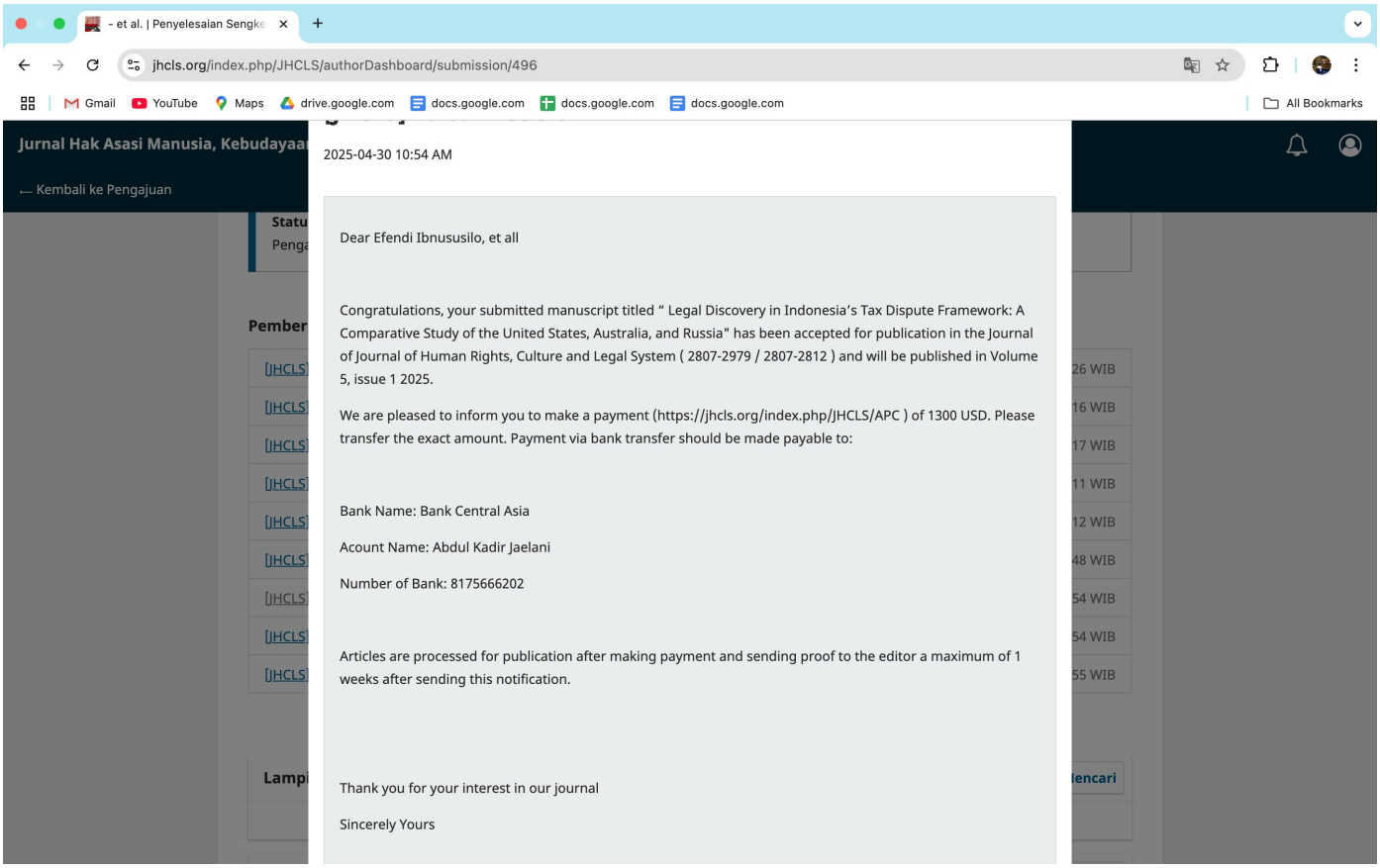

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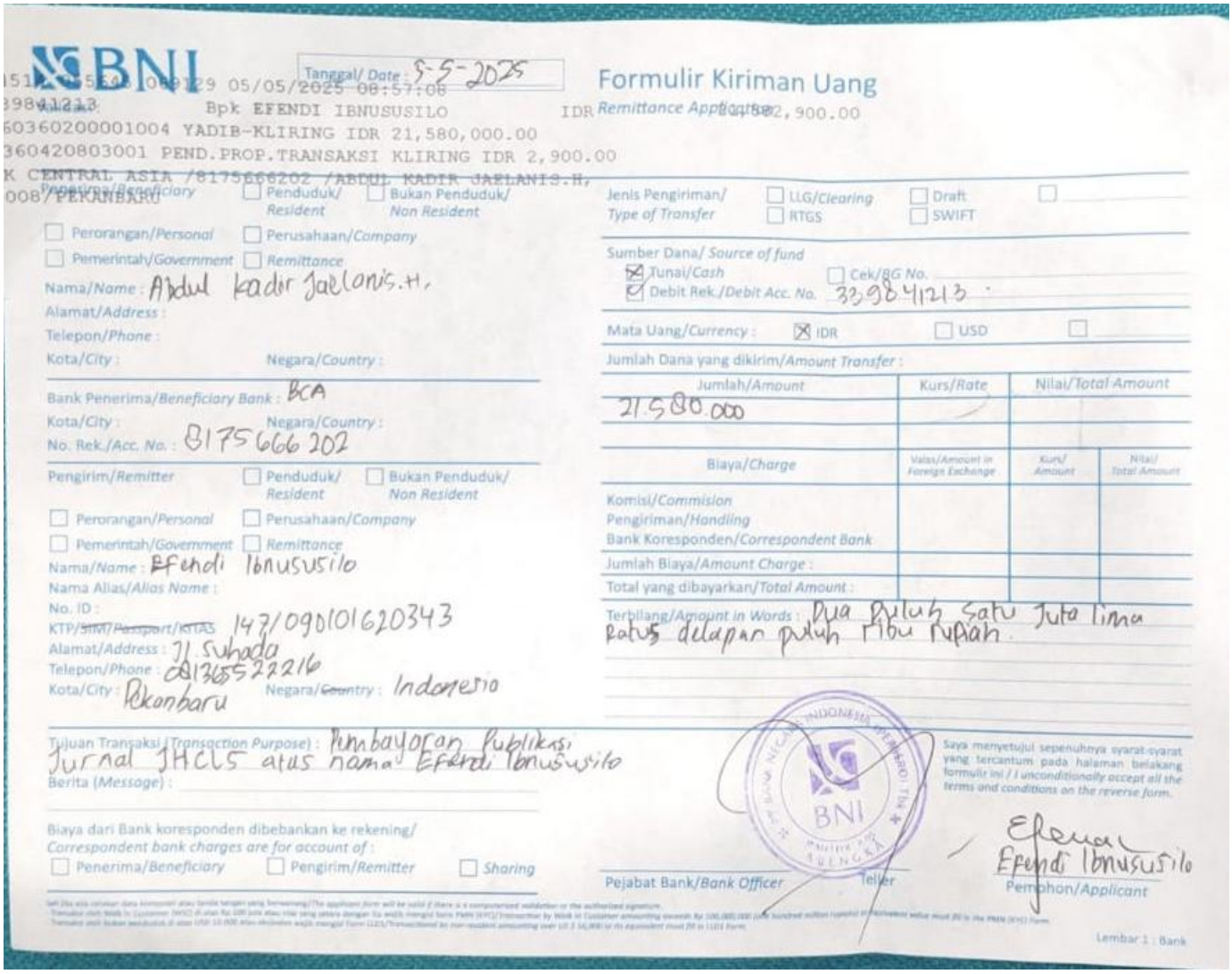

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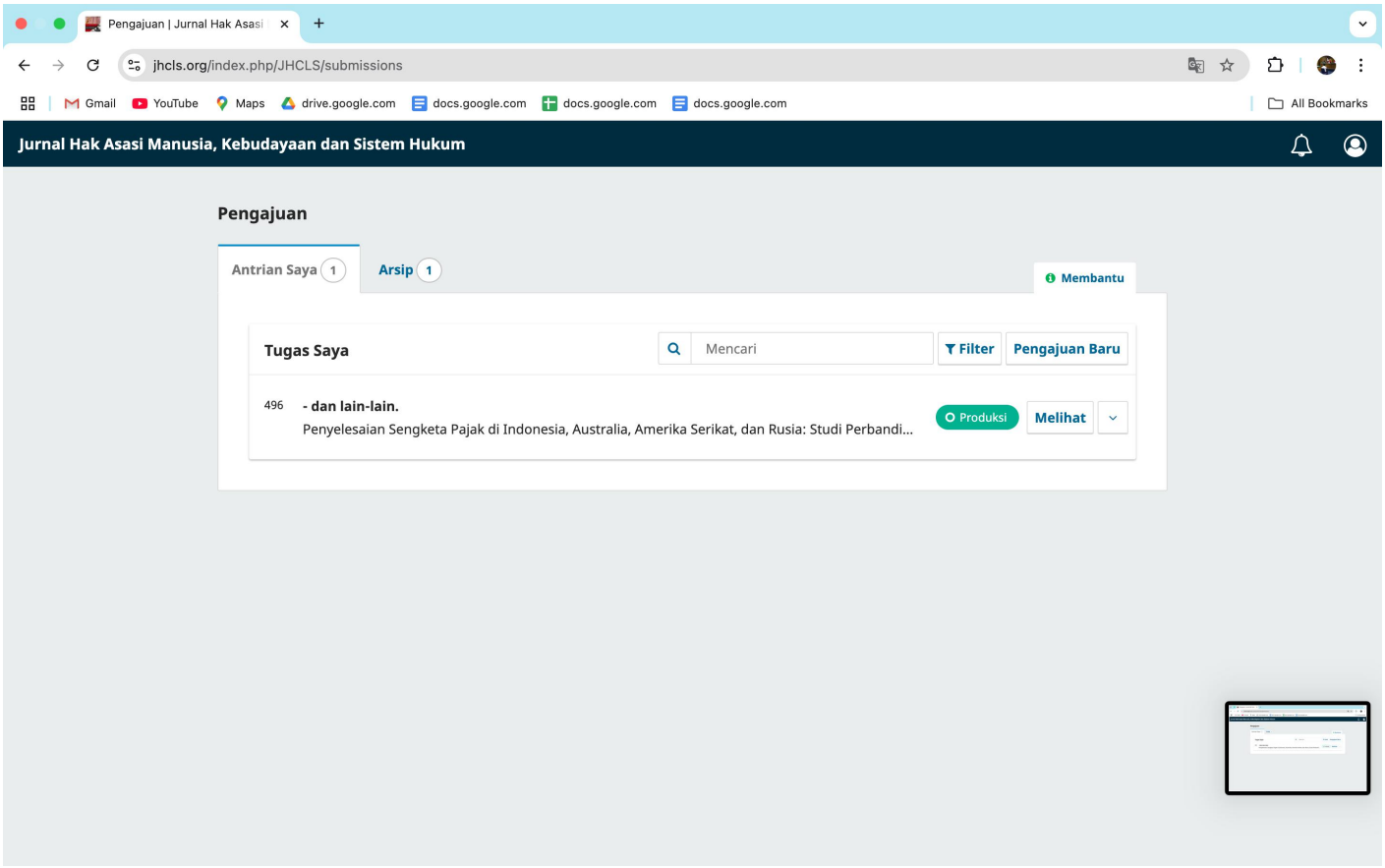
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# Legal Discovery in Indonesia's Tax Dispute Framework

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ABSTRACT (10PT)

There exists a normative disharmony between the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures (KUP) Law, which adversely affects the independence and authority of the Tax Court in adjudicating tax disputes. This legal inconsistency generates juridical uncertainty regarding the Tax Court's position within the Indonesian judicial system and the mechanisms for oversight of its decisions. This research aims to evaluate the current tax dispute framework in Indonesia and explore potential reforms by comparing the systems in the United States, Russia, and Australia. The research utilizes a This research is a normative legal research using a legislative, conceptual and comparative approach. The study reveals that the independence of Indonesia's Tax Court is weakened by dual oversight from the Supreme Court and the Ministry of Finance. Despite reforms aimed at improving autonomy, challenges such as case backlogs, prolonged proceedings, high litigation costs, and limited regional access remain. These findings highlight the urgent need for systemic reform. Drawing on international examples from the United States, Australia, and Russia, the integration of Alternative Dispute Resolution (ADR) mechanisms could significantly improve efficiency, fairness, and public trust in the tax system. Aligning the Tax Court fully under the Supreme Court and adopting ADR would strengthen institutional integrity.

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## 1. Introduction

The accumulation of funds required to advance this archipelago is one of the numerous critical functions of the Indonesian tax system. Nevertheless, disputes between tax officials and taxpayers may arise. Disputes occur when there is a disagreement regarding the interpretation of tax regulations, the amount of tax that should be paid, or the execution of administrative duties.[1] Disputes of this nature are inevitable due to the complexity of tax law and the numerous factors that must

[1] A.A Gede Diotama, I Nyoman Putu Budiartha, and Ida Ayu Putu Widiati, 'Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung', *Jurnal Konstruksi Hukum*, 3.1 (2022), 153–59 https://doi.org/10.22225/jkh.3.1.4411.153-159

be considered. Tax dispute resolution is critical for establishing an equitable and effective tax system that elucidates the law for all parties.[2]

One of the Tax Court's critical functions is to offer legal certainty to taxpayers and parties involved in tax disputes. The Tax Court is the initial and/or final level of review and determination in tax disputes.[3] In the event that a Tax Court decision is unchallengeable at the General Court, State Administrative Court, or any other judicial body, with the exception of a decision stating "Not acceptable" regarding authority/competence, a judicial review may be sought from the Supreme Court.[4] Two institutions, the Supreme Court and the Ministry of Finance, are involved in the Tax Court's position in Indonesia. As stipulated in Law No. 14 of 2002 regarding the Tax Court, the Ministry of Finance is responsible for the organizational, administrative, and financial aspects, while the Supreme Court is responsible for the technical-judicial aspects. The Tax Court is distinguished from the legal system as a whole by several characteristics that are related to the tax dispute resolution procedure. This court is responsible for evaluating and resolving disputes between tax officers and taxpayers.[5]

Even though "Law No. 14 of 2002" has established a well-defined framework for tax dispute resolution, it remains ineffective due to numerous insurmountable obstacles. Indonesia's administrative tax dispute resolution system does not offer disputing parties the opportunity to pursue conventional legal remedies. Instead, it provides the Supreme Court with an unconventional legal remedy through judicial review. Consequently, taxpayers find it more challenging to obtain justice, particularly in cases where tax officials' decisions are perceived as unjust. Furthermore, it is crucial to adhere to tax regulations and consider the consequences of unfair choices, as both have the potential to discourage individuals and organizations from violating tax provisions. The Directorate General of Taxes should revoke the business licenses of individuals who violate the law to motivate more individuals to pay their taxes. The Directorate General of Taxes (DGT) frequently fails to resolve tax-related matters. This is primarily attributable to the fact that taxpayer documentation is insufficient or regulations are not enforced consistently. PT Tirta Investama, for instance, was subject to financial adjustments by the DGT due to non-compliance with the provisions

[2] Yuli Trisnawati and Siti Nuryanah, 'Evaluating The Effectiveness Of Tax Objection Review In Indonesia's Tax Authority', *Jurnal Akuntansi Dan Keuangan Indonesia*, 19.1 (2022), 68–95 https://doi.org/10.21002/jaki.2022.04

[3] Tumian Lian Daya Purba and Dian Rahadian, 'Penyelesaian Sengketa Pajak Pada Kantor Pelayanan Pajak Kota Jayapura', *JURNAL EKOLOGI BIROKRASI*, 6.3 (2019), 11–22 https://doi.org/10.31957/jeb.v6i3.780

[4] Reni Ratna Anggreini, 'Relasi Mahkamah Agung Dan Pengadilan Pajak Dalam Kekuasaan Kehakiman', *Jurnal Lex Renaissance*, 6.3 (2021) https://doi.org/10.20885/JLR.vol6.iss3.art8

[5] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331–35 https://doi.org/10.22225/ah.2.3.2521.331-335

recorded during the audit and the absence of documentation indicating management services provided by Danone Asia Pte Ltd.[6]

The resolution of tax disputes must be more consistent with the judicial system as a whole, as per the provisions of "Law No. 48/2009 on Judicial Power." An independent judicial authority is a critical prerequisite for the establishment and resilience of a state founded on the rule of law. In the absence of an independent judicial power, the authorities will have the opportunity to abuse power and neglect human rights, particularly due to the influence of government (executive)power.[7] The 1945 Constitution (hereinafter referred to as the 1945 Constitution) Article 24 Paragraph (2) regulates judicial power as follows: "Judicial power is exercised by the Supreme Court and judicial bodies under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and by a Constitutional Court." Additionally, Law Number 48 of 2009 (hereinafter referred to as the Judicial Power Law) Article 25 specifies that the judicial bodies under the Supreme Court include judicial bodies in the general judicial environment, religious judicial environment, military judicial environment, and state administrative, judicial environment.[8]

The institutions authorized to exercise judicial power have been mentioned in a limited manner (limitation) about the provisions. In other terms, the Constitution explicitly specifies the judicial institutions that exist. The courts must be located in one of the judicial environments under the Supreme Court, such as the general judicial environment, religious courts, military courts, or state administrative courts, despite the existence of courts that the Constitution does not stipulate. On the other hand, the tax court's position is ambiguous by Law Number 14 of 2002 concerning the Tax Court (hereinafter referred to as the Tax Court Law). Article 2 of this law states that "the tax court is a judicial body that exercises judicial power for taxpayers or tax payers who seek justice for tax disputes." Consequently, the Judicial Power Law lacks synchronicity, as only four courts are listed in Article 25 above.[9]

The Tax Court is an administrative court (judicial control) that offers legal protection to individuals who experience disadvantage due to state administrative

[6] Daniel Edgar Hirasma Saragi, 'Mengapa DJP Kalah Dalam Sengketa Pajak? Studi Kasus Pada Perusahaan Air Minum Dalam Kemasan', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 8.1 (2024), 27–51 https://doi.org/10.31092/jpi.v8i1.2720

[7] Vidyatika Dwi Listanti, 'Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024', *Jurnal Indonesia Sosial Sains*, 6.1 (2025), 286–99 https://doi.org/10.59141/jiss.v6i1.1549

[8] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court', *Global Conference on Business and Social Sciences Proceeding*, 13.1 (2022), 1–1 https://doi.org/10.35609/gcbssproceeding.2022.1(95)

[9] Basuki Kurniawan and Nita Ryan Purbosari, 'Penyelesaian Disharmoni Peraturan Perundang-Undangan Melalui Jalur Mediasi', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyyah Fakultas Syariah IAIN Mataram*, 14.1 (2022), 83–96 https://doi.org/10.20414/alihkam.v14i1.4734

decisions in the form of stipulations (*beschikking*) issued by officials or State Administration bodies when viewed from a hierarchical perspective. Essentially, the Tax Court is anticipated to be able to offer a sense of justice to the disadvantaged party, which is the community in this instance. However, numerous issues have arisen in the process, including the regulatory system governing the Tax Court and the institutions and guidance.[10]

The "two-roof" Tax Court has implications for the Tax Court's performance. It raises several issues related to the recruitment of judges, supervision, development of judges, and their supporting resources, as well as the embodiment of the principles of transparency and openness of public information. Therefore, the Tax Court should be reformed to become a "one-roof" and independent judicial institution. The Supreme Court is responsible for the technical development of the judiciary and the organization, administration, and finance. The Tax Court's "one roof" construction is a distinct design that is a special court under the State Administrative Court.[11]

The Ministry of Finance, the Supreme Court, and the Judicial Commission's overlapping supervisory responsibilities can result in the rejection of supervision by any agency that will supervise based on the authority of the supervisory agency. The independence of the tax court will be impacted by guidance on one side in the Supreme Court (as a judicial institution) and on the other side in the Ministry of Finance (as an executive institution). This causes a contradiction, as the Ministry of Finance, which carries out executive functions, also carries out judicial functions when a tax dispute arises. The two institutions should be distinct to function as separate entities that regulate or supervise one another. Conditions arise to oversee the institution itself in such situations.[12]

The Tax Court, an appellate court by universally applicable Legal Science, as stipulated in Article 27 of the Judicial Power Law, emphasized its existence and independence. As a special court, it is appropriate to have its procedural law, as each court has its procedural law that guides law enforcers and judges to exercise judicial power. Additionally, the Tax Court's independence is evident in the nature and type of decisions it renders and the recruitment of Tax Court Judges.[13] Institutional ambiguity is generated by the contradiction between the Tax Court

[10] Dien Hanifa, Arrisman Arrisman, and Imam Haryanto, 'The Existence of Tax Courts in Indonesia From the Colonial Era, Independence, to Reformation', *Asian Journal of Social and Humanities*, 2.7 (2024), 1461–70 https://doi.org/10.59888/ajosh.v2i7.279

[11] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175 (2018), 012203 https://doi.org/10.1088/1755-1315/175/1/012203

[12] Rustian Mushawirya, 'The Tax Dispute Settlement According To Justice And Court System In Indonesia', *Nurani Hukum*, 2.2 (2020), 62 https://doi.org/10.51825/nhk.v2i2.6549

[13] Burhanudin Yusuf, Feriadi, and Anita Indriawati, 'Tax Disputes in the Digital Era: Challenges and Opportunities Toward Legal Certainty', *Jurnal Dedikasi Hukum*, 4.2 (2024), 170–86 https://doi.org/10.22219/jdh.v4i2.35351

Law (Law No. 14/2002) and the Judicial Power Law (Law No. 48/2009), which designates the Tax Court as a component of the PTUN.[14]

Vertical and horizontal disharmony in the tax law system are the consequences of the inconsistency between the Tax Court Law, the Law on General Provisions and Tax Procedures (KUP), the Judicial Power Law, and other technical regulations (PMK, Regulation of the Director General of Taxes"). The absence of a distinct, rigorous, and systematic procedural law (*lex specialis*) for the Tax Court results in legal uncertainty, inconsistent application of legal principles, and procedural irregularities for taxpayers and the Directorate General of Taxes. This undermines the equity and legal certainty of dispute resolution. The suboptimality of the ideal dispute resolution mechanism in a country based on the rule of law is also reflected in this condition, raising concerns about guaranteeing objectivity and justice for taxpayers. Consequently, it is imperative to conduct a more comprehensive examination of a variety of alternative dispute resolutions that not only address the requirement for procedural efficiency but also ensure independence, accountability, and substantive justice in practice.[15]

Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution. Therefore, to mitigate the escalation of conflicts and enhance their relationship with taxpayers, international tax authorities are inclined to implement various initiatives, including alternative dispute resolution (ADR) procedures, to resolve tax disputes without litigation.[16] The primary objective of the ADR process is to facilitate the earlier resolution of tax disputes or the entire prevention of tax disputes. This approach offers both parties increased certainty and the capacity to allocate limited resources.[17] Additionally, the transition to alternative dispute resolution (ADR) processes in tax dispute resolution is generally consistent with a shift in the culture of tax authorities from "command and control" to one intended to foster trust, support, and respect within the community. This shift in culture, in turn, promotes voluntary compliance.[18]

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[14] Farel Rifandanu, 'Implikasi Putusan Mahkamah Konstitusi Nomor 26/PUU-XXI/2023 Terhadap Pembinaan Pengadilan Pajak', *Amnesti: Jurnal Hukum*, 6.1 (2024), 145–61 https://doi.org/10.37729/amnesti.v6i1.3270

[15] Agus P. Priyono Henry DP Sinaga, 'Is Administrative Justice A Problem-Solving of Tax Dispute?', *Jurnal Tax Law and Policy*, 1.1 (2022), 54–66 https://doi.org/10.56282/jtlp.v1i1.63

[16] Ardiansyah Ardiansyah, 'Comparative Study of The Implementation Of Alternative Disputes Resolution (Adr) In Tax And Customs Disputes In Indonesia', *Journal Evidence Of Law*, 1.1 (2022), 55–69 Https://Doi.Org/10.59066/Jel.V1i1.15

[17] Muhammad Ghifari, 'Alternatif Dispute Resolution to Reduce Costs, Energy, And Time Issued by DJP Taxpayer or Dispute Settlement in Taxation', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14821

[18] I Nyoman Wara, Dumaria Simanjuntak, and Reny Yemimalina Sinaga, 'Conflict of Interests in Declaring State/Regional Loss of Tax Income in Indonesia', *Jurnal Tata Kelola Dan Akuntabilitas Keuangan Negara*, 9.2 (2023), 349–66 https://doi.org/10.28986/jtaken.v9i2.1340

Additionally, the tax authorities' implementation of the ADR process is consistent with the dispute systems design (DSD) concept, which is a deliberate endeavor to enhance how organizations manage conflicts by organizing dispute resolution processes clearly and strategically. Consequently, the utilization of ADR to improve the efficiency and effectiveness of tax administration and to facilitate the resolution of disputes with tax authorities or to alleviate concerns is the fundamental objective of DSD, which is to reduce the costs of dispute resolution and to produce more durable and satisfactory resolutions.[19]

The efficiency and fairness of tax dispute resolution can be substantially enhanced by implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation. Mediation has been effectively implemented in Australia, Russia, and the United States. Its implementation in Indonesia can potentially reduce the backlog of cases and provide a more cost-effective solution for taxpayers. The U.S. Tax Court, a specialized tax court not affiliated with the IRS (tax authority), already exists in the United States. Consequently, taxpayers can register a lawsuit with the Tax Court before paying taxes, allowing them to access justice without the initial financial burden. An ADR system that is implemented efficiently and is beneficial to taxpayers can expedite settlement without placing an undue burden on the court. The Administrative Appellate Tribunal (AAT) is an independent an independent non-judicial administrative appeal forum in Australia with significant authority. The ATO (Australian Tax Office) also facilitates mediation and informal settlement as a first step, and the Tax Ombudsman (Inspector-General of Taxation) supervises tax dispute resolution services. The accountability and public trust are fortified by the participation of this independent supervisory authority (Ombudsman). The majority of tax disputes in Russia are initially resolved through administrative review at the tax authority (Federal Tax Service). Russia has demonstrated advancements in the efficacy and modernization of dispute resolution, particularly through the implementation of legal technology (e-justice), even though the system is not as autonomous as those of the United States or Australia.

Given the successful implementation of various alternative dispute-resolution methods in numerous countries, conducting a more comprehensive analysis of the techniques used in previous studies is crucial. The Tax Court Law is less appropriate in providing legal protection for tax dispute resolution than the generally applicable judicial system, as previous research by Rustian Mushawirya demonstrated that the tax dispute resolution mechanism is, in principle, not by the generally applicable judicial system. The Ministry of Finance's recruitment of Tax Court judges and the process of organizational, financial, and administrative development of the Tax Court can present an opportunity for tax officials to intervene in the tax dispute process. This directly opposes Article 11 paragraphs (1)

[19] Noviansyah and Sabela Gayo, 'The Use of Mediation as Alternative Tax Dispute Resolution', *International Journal of Research and Review*, 10.1 (2023), 133–43 https://doi.org/10.52403/ijrr.20230114

and (2) of Law Number 35 of 1999, which mandates and confirms that the Supreme Court is responsible for the judicial environment's organizational, financial, and administrative development.[20] Subsequently, Heriantonius Silalahi et al. conducted research demonstrating tax professionals' critical role in reducing risk, assuring compliance, and navigating intricate legal frameworks. Their cooperation is essential for the reduction of financial penalties, the expedition of dispute resolution, and the enhancement of taxpayer confidence. A more effective tax administration system can be achieved by enhancing the synergy between these professions, promoting fairness and legal certainty, and increasing taxpayer confidence in the Indonesian tax regime.[21] Furthermore, Khoirul Hidayah's investigation identified social issues associated with the growing number of unresolved tax collections at the Tax Court. In this investigation, mediation was implemented as an alternative dispute resolution method for tax settlements in Indonesia. Administrative and legal efforts are anticipated to facilitate the rapid and courteous resolution of disputes through mediation. Additionally, mediation is expected to enhance the relationship between taxpayers and the Directorate General of Taxes and increase the voluntary compliance of taxpayers following the conflict. He also stated that Indonesia has not regulated mediation in the resolution of tax settlements. Consequently, modifications must be made to the Law on General Provisions and Tax Procedures to establish mediation regulations.[22]

Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General Tax Provisions, and the effect they have on the independence of tax court institutions.[23] Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General

[20] Mushawirya.
[21] Heriantonius Silalahi and others, 'The Influence of Tax Dispute Resolution Mechanisms: Legal Contributions of Tax Consultants and Tax Attorneys in Indonesia', *Ilomata International Journal of Tax and Accounting*, 6.1 (2025), 25–52 https://doi.org/10.61194/ijtc.v6i1.1597
[22] Hidayah.
[23] Heru Setiawan and others, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263–98 https://doi.org/10.53955/jhcls.v4i2.263

Tax Provisions, and the effect they have on the independence of tax court institutions.

## 2. Research Method

This research is normative legal research, which employs legal, conceptual, comparative, and Methods of Systematic Literature Review. Systematic literature review is a methodology that entails examining and interpreting a collection of pertinent literature, including previously published journals, emphasizing the theory being discussed within a specific context.[24] Efforts to resolve tax settlements in Indonesia, as regulated by the Tax Administration Law and the Tax Court Law, are examined in this study using the regulatory-statutory approach. The cooperative paradigm recommended by the OECD is employed to investigate the concept of tax settlement in the conceptual approach. The tax settlement models employed by the United States, Australia, and Russia are summarized in the comparative approach.[25] Legal, conceptual, case, analytical, and philosophical methodologies are implemented. The document study method is the selected data collection strategy for this investigation.[26] The data utilized is secondary data derived from literature investigations, primary legal materials, including legal theories and laws. Books, articles, and research findings comprise secondary legal materials in addition to conducting additional research on primary legal materials from a theoretical perspective and examining their practical application.[27] Indonesia's tax disputes are resolved through various legal sources, including international practices, legal principles, and laws and regulations. The researcher initially details the administration and regulation of tax settlements in the United States, Australia, and Russia using the cooperative paradigm in the discussion. Then, the researcher employs qualitative legal methods to conduct identification and analysis. The researcher employs the legal fiction method to identify relevant regulations.[28]

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[24] Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 https://doi.org/10.53955/jhcls.v4i3.396

[25] Aditia Syaprillah and Fuad Shehab Shyyab, 'Legislative Framework for Decentralized Administration in Addressing River Pollution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 55–77 https://doi.org/10.53955/jsderi.v3i1.39

[26] Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas, and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 https://doi.org/10.53955/jsderi.v2i3.48

[27] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 https://doi.org/10.22219/ljih.v30i1.20764

[28] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14713

## 3. Results and Discussion

### *Tax Dispute Resolution System in Indonesia*

Tax disputes in Indonesia result from disagreements between tax authorities and taxpayers regarding tax obligations. The Tax Court is a significant player in resolving these disputes, which involve a combination of administrative and judicial processes. The Indonesian Tax Court's practice of resolving tax disputes is based on or still employs Law Number 14 of 2002, even though the Tax Court's position has been updated. The Tax Court is a Special Court within the State Administrative Court, as defined by Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. The change in its position undoubtedly impacts the litigation procedures in the Tax Court (its Procedural Law). In reality, there has been no subsequent action, so the resolution of tax disputes continues to be governed by Law Number 14 of 2002.[29]

The legal remedy of Judicial Review to the Supreme Court is regulated in Chapter IV Article 34 to Article 42 of Law Number 14 of 2002, which also governs the resolution of tax disputes through the Tax Court. A decision is the subject of a lawsuit or appeal letter. The present Tax Court is a historical advance over the Tax Dispute Resolution Agency (BPSP), the previous Tax Court institution. The Tax Court lodged a legal remedy of Judicial Review with the Supreme Court to address the deficiencies and weaknesses of the BPSP, particularly the implementation of the judicial system with tiered examinations to the Supreme Court.[30] The Tax Court is responsible for examining and deciding on disputes over objection decisions in resolving tax disputes unless otherwise specified by applicable laws and regulations. The Tax Court conducts an examination and determination of disputes concerning the implementation of tax collection on Correction Decisions or other Decisions in a lawsuit, as outlined in Article 23, Paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures. This law has been amended numerous times, most recently by Law Number 16 of 2000, and is subject to all relevant tax laws and regulations.[31]

In Indonesia, the resolution of tax disputes is subject to various channels and institutions, including the administrative objection process, litigation filed with the Tax Court, and judicial review proceedings before the Supreme Court. The

[29] Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 https://doi.org/10.1063/5.0202042

[30] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Examining the Factors That Affect the Loss of Tax Disputes in the Tax Court', *GATR Accounting and Finance Review*, 7.2 (2022), 97–112 https://doi.org/10.35609/afr.2022.7.2(3)

[31] Maria R. U. D. Tambunan and Gabriel Muara Thobias Silalahi, 'Article: Resolving Conflicts Between Production Sharing Contracts and Tax Treaties in Indonesia', *Intertax*, 52.Issue 2 (2024), 154–62 https://doi.org/10.54648/TAXI2024022

settlement of tax disputes acknowledges two mechanisms: dispute resolution through administrative efforts, specifically through the objection institution, and through the judicial institution, the Tax Court. The formal regulations in tax law clearly explain the provisions about the institutions responsible for resolving tax disputes.[32]

The principle of judicial independence governs the Tax Court, even though the Supreme Court and the Ministry of Finance historically supervise its organizational, administrative, and financial management. Nevertheless, the Tax Court is now entirely under the supervision of the Supreme Court due to Constitutional Court Decision Number 26/PUU-XXI/2023. This has resulted in an increase in the court's independence and impartiality in resolving tax disputes. The Tax Court's structure has been affected by a variety of reforms, including the transfer of organizational, administrative, and financial authority from the Ministry of Finance to the Supreme Court by Constitutional Court Decision Number 26/PUU-XXI/2023.[33]

The stages of tax dispute resolution in Indonesia typically adhere to a series of formal steps by the relevant laws and regulations, which are specifically outlined in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law.[34] Administrative/objection, appeal, lawsuit, and judicial review are among the stages of tax dispute resolution. Without the court's involvement, the objection stage is resolved within the internal scope of the Directorate General of Taxes (DGT). Tax administration, which encompasses tax dispute resolution, is the responsibility of the Directorate General of Taxes (DGT) within the Ministry of Finance. Before they are submitted to the Tax Court, DGT manages objections and appeals.[35] The DGT is also involved in implementing alternative dispute resolution mechanisms, such as mediation, to facilitate the peaceful resolution of tax disputes. The objective is to offer taxpayers the chance to express their dissatisfaction with tax decisions through administrative channels before proceeding to the legal (judicial) process.[36]

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[32] Nataša Žunić Kovačević, 'Effectiveness of Tax Dispute Resolution Mechanisms – The Impact of the European Legal Framework on National Jurisdiction', *Law, Identity and Values*, 4.1 (2024), 271–91 https://doi.org/10.55073/2024.1.271-291

[33] Listanti.

[34] Reza Octavia Kusumaningtyas and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 https://doi.org/10.53955/jsderi.v1i2.7

[35] Al Fadilla Yoga Brata and Rakotoarisoa Maminiaina Heritiana Sedera, 'The Implementing a Carbon Tax as a Means of Increasing Investment Value in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 39–50 https://doi.org/10.53955/jsderi.v1i2.6

[36] Anis Muhamad, Ramlani Lina Sinaulan, and Khalimi Khalimi, 'Mediasi Sebagai Alternatif Penyelesaian Sengketa Pajak', *SENTRI: Jurnal Riset Ilmiah*, 2.11 (2023), 4667–76 https://doi.org/10.55681/sentri.v2i11.1778

The administrative stage/objection stage involves negotiations and mediation between tax authorities and taxpayers to establish a settlement agreement. If a settlement is not reached, taxpayers can appeal to the court or a special arbitration body designated to resolve the dispute. To enhance the efficacy of tax dispute resolution, it is crucial to establish a legal framework that is both transparent and unambiguous, as well as to establish an efficient and equitable process. The Tax Court is authorized to manage both litigation concerning tax collection and appeals against tax assessment decisions. The court's decision is legally binding and ensures legal certainty for tax authorities and taxpayers. Tax dispute resolution is a legal procedure designed to resolve disputes between tax authorities and taxpayers that arise concerning disagreements over tax obligations.[37]

The judicial process in the Tax Court is intended to be straightforward, efficient, and cost-effective. However, in practice, the process can be lengthy and intricate due to the complexity of tax disputes and the extensive number of cases.[38] However, One of the Tax Court's most significant challenges is the substantial number of unresolved cases. Due to the considerable increase in tax disputes, the Court has faced significant challenges in meeting the demand. This has led to delays in the resolution of cases, which can be discouraging for taxpayers and erode their trust in the tax system.[39] The tax court system in Indonesia is experiencing a significant backlog of cases, resulting in delays and increased costs for taxpayers seeking a resolution. The tax court's dual-guided system exacerbates the situation by impacting its independence and efficacy.[40]

In Indonesia, tax tribunals are subject to a dual guidance system, which involves the Supreme Court providing technical-judicial guidance and the Ministry of Finance providing organizational, financial, and administrative guidance. This dualism raises concerns regarding the independence of the tax tribunals, as it may result in conflicts of interest and bias in decision-making. Differing interpretations of tax laws and regulations and aggressive tax audit behavior frequently result in disputes. The tax court system lacks the specialized knowledge and consistent application of legal principles necessary to address this complexity.[41] Mostly, case resolution is the primary objective of the tax courts'

[37] Yi Li, 'Reform and Innovation of International Tax Dispute Resolution Mechanisms', *Beijing Law Review*, 15.03 (2024), 1143–57 https://doi.org/10.4236/blr.2024.153069

[38] Dyah Nur Sasanti and Hetty Tri Kusuma Indah, 'Problematika Penyelesaian Sengketa Di Pengadilan Pajak Dalam Rangka Perwujudan Peradilan Sederhana, Cepat, Dan Biaya Ringan', *Reformasi Hukum*, 26.1 (2022), 21–38 https://doi.org/10.46257/jrh.v26i1.256

[39] Hanifa, Arrisman, and Haryanto.

[40] Sari and Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court'.

[41] Maria R.U.D. Tambunan, 'Transfer Pricing Settlement in Indonesia: A Note for Tax Authority, Tax Court, and Taxpayers Based on the Tax Court Decisions', *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi Dan Organisasi*, 29.2 (2022) https://doi.org/10.20476/jbb.v29i2.1306

dispute resolution process instead of problem-solving. This leads to recurring disputes and fails to address the underlying causes of disputes between tax authorities and taxpayers.[42]

Currently, taxpayers must pay a portion of the disputed tax upfront, as the dispute resolution procedure is costly and protracted. The process is multifaceted and may require several years to conclude, encompassing objections, appeals, and reviews. In the interim, the Tax Court is exclusively situated in Jakarta, the capital, which presents logistical difficulties for taxpayers from other regions. This centralization leads to an increase in taxpayers' time and travel expenses, rendering the process more cumbersome and less accessible.[43] In general, the Indonesian tax court system's systemic inefficiencies are predominantly the result of a combination of legal, administrative, and structural challenges.

The intricate interactions between the tax court's organizational framework and the broader judicial and executive systems exacerbate these inefficiencies.[44] Administrative deficiencies, legal inconsistencies, and the tax court's distinctive position within the Indonesian legal framework all contribute to its operational inefficiencies. The tax court operates under a unique legal framework that excludes it from the traditional judicial hierarchy, resulting in a lack of integration with the broader judicial system. This separation leads to a lack of independence and conflicts of interest, as the tax court is not entirely under the jurisdiction of the Supreme Court and is instead influenced by the Ministry of Finance. Consequently, there is a risk of weak oversight and control.[45]

The substantial number of tax disputes significantly impacts the efficacy of the tax courts in Indonesia. The dual guidance system exacerbates these challenges and the dispute resolution process's high case volume, complexity, and inefficiencies. Nevertheless, potential reforms, including decentralization and alternative dispute-resolution mechanisms, could enhance the system's efficacy and accessibility.[46] Comprehensive legal and structural reforms are required to guarantee the independence and integration of the tax courts into the broader judicial system, which will result in substantial improvements. Furthermore, it

[42] Henry DP Sinaga.

[43] R. O. Fatianov, 'The Principles Of Tax Dispute Resolution', *Juris Europensis Scientia*, 5, 2023, 75–78 https://doi.org/10.32782/chern.v5.2023.15

[44] Dharma Setiawan Negara and others, 'Reorganization Of The Tax Court Within The State Administrative Court Post Constitutional Court Decision No 26/PUU-XXI/2023', *IBLAM LAW REVIEW*, 3.2 (2023), 234–41 https://doi.org/10.52249/ilr.v3i2.323

[45] Nafis Dwi Kartiko and Agustin Widjiastuti, 'Reducing Socio-Economic Disparities in Indonesia: Strengthening the Taxation Sector in Indonesia', *Activa Yuris: Jurnal Hukum*, 3.1 (2023) https://doi.org/10.25273/ay.v3i1.15912

[46] Dinda Agustin Wulandari, Abdul Kadir Jaelani, and Hilaire Tegnan, 'Income Tax Regulations for Child Content Creators of TikTok Platform: Inefficacy of Indonesian Legal Frameworks', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 169–91 https://doi.org/10.53955/jsderi.v2i2.35

will be essential to resolve these systemic inefficiencies by fostering public trust and compliance through effective administration and transparency.

***Tax Dispute Resolution System in the United States, Australia, and Russia***

It is crucial to compare Indonesia's tax dispute resolution mechanisms with those in the United States, Australia, and Russia, as the three countries represent differing legal systems. This comparison offers a comprehensive perspective on the development of reforms. The U.S. Tax Court is an independent tax court that effectively assures access to justice without an initial financial burden for taxpayers, as the United States relies on its standard law system. Australia employs a hybrid approach that emphasizes alternative dispute resolution (ADR) through institutions like the Administrative Appeals Tribunal and the Tax Ombudsman. This approach enables the expeditious resolution of disputes outside of the formal court process. In the interim, Russia, a nation with a robust civil law tradition, has exhibited efficacy in modernizing the legal system through digital technology and implementing internal administrative resolution mechanisms.[47]

The tax system in the United States is typically self-assessed. A taxpayer's tax liability is self-assessed when they submit a tax return. The Internal Revenue Service (IRS) employs a variety of mechanisms to promote self-assessment, such as penalties for failure to file and subpoenas. Specific facts are typically reported in tax returns, which are used to determine the tax liability and the tax calculation. This self-assessment remains essentially unaltered. However, tax returns are annually chosen for auditing based on a computer assessment process, inconsistency with other related tax returns, or at random. Additionally, numerous substantial corporations undergo routine audits. The IRS suggests an adjustment if it disputes a taxpayer's self-assessment. [48] The tax dispute resolution system in the United States is distinguished by a multilayered, intricate structure that prioritizes independence, specialization, and a combination of formal and informal mechanisms. The system is intended to facilitate the timely resolution of disputes while guaranteeing the decision-making process's impartiality and expertise.[49]

The IRS examination (or audit) procedure is the primary mechanism by which tax disputes in the United States are typically initiated. A taxpayer can request a meeting or telephone conference with the IRS examiner and/or supervisor if they

[47] Iswantoro Iswantoro, Saparwadi Saparwadi, and Devi Triasari, 'The Role of District Governments in Handling Damage to National Roads in the Regional Autonomy', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 20–34 https://doi.org/10.53955/jsderi.v2i1.22

[48] Ruwaidah Afiyati and others, 'Tax Dispute Settlement Mediation Arrangements in the Future Tax Court', *International Journal of Research in Business and Social Science (2147- 4478)*, 11.5 (2022), 503–11 https://doi.org/10.20525/ijrbs.v11i5.1867

[49] Defi Defi, 'International Tax Dispute Resolution through Mutual Agreement Procedure in Indonesia: Past, Present, and Future', *Educoretax*, 4.9 (2024), 1087–1106 https://doi.org/10.54957/educoretax.v4i9.1055

disagree with any or all of the IRS's findings during the examination process. A fragmented and decentralized system that encompasses both public and private mechanisms is the hallmark of the tax dispute resolution system in the United States. The nature of the dispute, the parties involved, and the specific legal framework in force are all factors that influence this system.[50]

The United States employs a combination of litigation, arbitration, and mediation to resolve tax disputes, with a growing trend toward privatized dispute resolution methods. This method is designed to offer efficiency and adaptability but poses difficulties regarding accessibility and consistency. Several administrative requirements must be met before the IRS can assess additional tax or begin collecting it. The IRS must issue a Notice of Deficiency and wait 90 days for the taxpayer to file a petition with the US Tax Court or, if the taxpayer elects to do so, until the litigation is ultimately resolved to assess tax. The IRS will initially issue a Notice of Proposed Adjustment (NOPA) if the IRS disputes a taxpayer's reported tax liability. The taxpayer is generally granted 30 days to respond to the NOPA, although it is not mandatory. The taxpayer may sign and return the NOPA if they concur with the adjustment. Subsequently, they may pay the tax due upon assessing their tax liability. The IRS typically provides taxpayers with a 30-day letter and Revenue Agent Report to request a meeting with the IRS Independent Appeals Office (Appeals) to protest the adjustment if the taxpayer disagrees with the NOPA. A Notice of Deficiency will be issued to the taxpayer if they opt not to appeal.[51]

Appeals may either rescind the adjustment, reduce the proposed tax liability by the settlement, or maintain the adjustment in its entirety if the taxpayer appeals. The taxpayer is obligated to pay the tax due upon obtaining the assessment of the tax liability if the taxpayer concurs with the Appeals resolution. A Notice of Deficiency will be issued to the taxpayer if the Appeals resolution is unacceptable. The taxpayer has 90 days to either concur with the IRS's assessment of the deficiency or request a redetermination from the Tax Court following the issuance of the Notice of Deficiency. The IRS is prohibited from assessing additional tax for 90 days unless the taxpayer consents to the assessment. The taxpayer may still petition for a refund in court if the taxpayer agrees to the evaluation and pays the tax. Additionally, the IRS is prohibited from imposing additional taxes until the

[50] Ariel C. Avgar and others, 'A Fragmented and Heavily Privatized Dispute Resolution System: The United States', *Industrial Relations Journal*, 54.4–5 (2023), 304–20 https://doi.org/10.1111/irj.12409
[51] E.B. Luparev and A.V. Shvets, 'US Tax Dispute Resolution System: What Can Be Borrowed for Russia?', *Law Gazette of the Kuban State University*, 3, 2022, 44–49 https://doi.org/10.31429/20785836-14-3-44-49

litigation has been finalized, including after an appeal to a higher court, if the taxpayer exercises their right to petition the Tax Court.[52]

Tax fraud may be resolved through civil or criminal proceedings. An IRS examiner will ascertain whether there is an element of tax fraud and, if so, whether the taxpayer may have committed criminal tax evasion during an audit. The examiner will consult with a special agent in the IRS Division of Criminal Investigation if they suspect a criminal element. The agent will evaluate the case and, if necessary, refer it to the Department of Justice for prosecution. The IRS will postpone the civil audit until the criminal case is resolved if the government elects to prosecute. The IRS will determine whether to impose a civil fraud penalty of 75% at that time, irrespective of whether the government has charged a criminal case. The IRS will prove the penalty if the taxpayer contests it in court.[53]

Taxpayers can challenge their tax liability through the IRS Independent Office of Appeals (Appeals), the courts, or both to resolve tax disputes. While the IRS Appeals division is a component of the IRS, it is distinct from the IRS examination and collection divisions. The Appeals process is less formal and less expensive than the courts, which is why taxpayers may prefer to seek relief through Appeals before appealing to the courts. Taxpayers need to be aware that they do not relinquish their right to appeal to a court by submitting an appeal (or not filing one).[54]

Upon completing an audit, taxpayers are entitled to appeal the deficiencies identified through administrative or judicial processes (or both). Before pursuing legal remedies, taxpayers are not required to seek an administrative resolution with the IRS Independent Appeals Office (Appeals). Nevertheless, the potential for a more rapid and cost-effective resolution in appeals is a compelling alternative. Taxpayers may elect to settle the disputed liability and pursue an appeal due to the ongoing accrual of interest and penalties during the appeal process (again, both administratively and judicially). If they fail to repay the liability, the taxpayer cannot appeal the disputed liability administratively or to the US Tax Court. If the taxpayer prepays the disputed liability, they can appeal the determination to the US Court of Federal Claims or any US District Court with appellate jurisdiction. If the taxpayer is dissatisfied with the court's decision, they have the additional right to appeal to any US Court of Appeals with jurisdiction. Lastly, the Court of

[52] 'Domestic Dispute Resolution Mechanisms', in *United Nations Handbook on the Avoidance and Resolution of Tax Disputes* (United Nations, 2023), pp. 71–107 https://doi.org/10.18356/9789210001151c005

[53] Kimberly A. Clausing, 'The US Perspective on International Tax Law', in *The Oxford Handbook of International Tax Law* (Oxford University Press, 2023), pp. 799–820 https://doi.org/10.1093/oxfordhb/9780192897688.013.47

[54] Hyun Cheol Jun, 'A Study on the Improvement of Tax Dispute Proceedings Focused on Comparison of the Legal Systems in the U.S', *Jeonbuk Law Review*, 72 (2023), 193–219 https://doi.org/10.56544/JBLR.2023.09.72.193

Appeals may petition the United States Supreme Court to consider the case if the taxpayer disagrees with the US court's decision. Nevertheless, petitions of this nature are infrequently granted by the United States Supreme Court.[55]

Alternative dispute resolution is unavailable during the examination phase. If disagreements arise following the examination and the case is transmitted to the IRS Independent Appeals Office (Appeals), numerous alternatives for mediation are not part of the standard Appeals process. Fast Track Mediation and Fast Track Settlement (FTS) allow small and large business taxpayers to resolve factual and legal disputes during the IRS examination. The IRS Appeals Department serves as a mediator. The standard Appeals option remains accessible if the case is not resolved. The Fast Track Appeals process is also designed to offer expedited access to an Appeals officer who serves as a mediator without precluding the regular Appeals option if a settlement is not reached. The taxpayer can request post-appeal mediation if a settlement is not reached during the regular appeals process. In this process, mediators selected by the taxpayer and Appeals attempt to facilitate a settlement. However, this option is unavailable if the taxpayer has used FTS before the Appeals process. Although binding arbitration is not an option in an IRS examination or appeals, it is available in litigation and non-binding mediation.[56]

Effective ADR may advantageously affect tax compliance and tax administration. Furthermore, ADR has been broadly embraced by enterprises, federal agencies, and tax authorities in specific foreign countries. Similarly, the Internal Revenue Service (IRS) has acknowledged that ADR can benefit its operations. Additionally, the IRS has expressed the belief that specific components of ADR can be effectively employed to promote the resolution of disputes at an early stage and shorten the duration from filing a return to the final resolution of a dispute.[57] Nevertheless, the IRS fails to capitalize on this potentially advantageous instrument and implements ADR in an unappealing manner to taxpayers. For instance, taxpayers and their representatives may question the impartiality, cost-effectiveness, and accessibility of the ADR procedure. Due to these factors, taxpayers may be inclined to embrace ADR opportunities within the IRS. A more efficient and cooperative approach that could benefit Indonesia to Indonesia is the U.S. model, which emphasizes alternative dispute resolution (ADR) methods such as mediation and arbitration. Indonesia could enhance its tax dispute resolution process, reduce the accumulation of cases, and cultivate a more collaborative relationship between taxpayers and tax authorities by implementing a comparable approach. This

[55] Avgar and others.
[56] Adinda Destaloka Putri Permatasari, 'Comparison Of Arbitration Dispute Resolution In Business Between Indonesia And United States Of America', *Journal of Private and Commercial Law*, 6.2 (2022), 183–200 https://doi.org/10.15294/jpcl.v6i2.30289
[57] Dinda Anna Zatika, 'The Principle of Justice in the Settlement of Tax Disputes Based in Tax Law in Indonesia', *Formosa Journal of Multidisciplinary Research*, 2.8 (2023), 1403–16 https://doi.org/10.55927/fjmr.v2i8.5738

transition is essential for Indonesia to ensure that it is by international best practices and that the tax system is fair and efficient.[58]

Most tax disputes in the United States are still resolved through formal processes in the Tax Court or the IRS Office of Appeals, despite the growing popularity of ADR. ADR is implemented in specific circumstances, particularly when both parties desire a resolution that is expedited and less costly. The US Tax Court has several substantial advantages over the Indonesian Tax Court. One of the primary benefits is the significantly increased level of institutional independence. The US Tax Court is an autonomous judicial institution directly appointed by the President with the Senate's sanction, without the involvement of tax authorities.[59] This ensures objectivity and neutrality in dispute resolution. Conversely, the Indonesian Tax Court continues to be administered financially and organizationally by the Ministry of Finance, which may result in a conflict of interest. In addition, the United States system allows taxpayers to submit a dispute with the Tax Court before paying the disputed tax, unlike Indonesia, which typically necessitates payment in advance as a prerequisite for appeal.[60]

The US Tax Court has implemented a contemporary and transparent legal framework, encompassing electronic systems for filing and proceedings. In contrast, Indonesia continues to encounter constraints in this regard. Furthermore, the Ministry of Finance continues to administer, finance, and organize the US Tax Court, which may result in a conflict of interest. The Small Tax Case program, which is not yet available in the Indonesian system, is an innovation that the Tax Court offers to expedite the resolution of small-value tax disputes. These advantages demonstrate that the tax court system in the United States is more capable of preserving taxpayer rights, enhancing the accessibility of justice, and promoting efficiency in the tax dispute resolution process.[61]

In contrast to the US, which predominantly resolves disputes through tax courts, Australia has adopted a mixed legal system (common law + strong administrative system) with a very advanced ADR (Alternative Dispute Resolution) approach. The Australian Taxation Office (ATO) initiated alternative dispute resolution (ADR) in 2013 to resolve tax disputes. This process encompasses mediation, negotiation, case discussion, conciliation, and evaluation by a neutral party. Resolving tax disputes in Australia requires a multifaceted approach that encompasses both

[58] Defi.

[59] Jan Thomas Martini and others, 'Incentive Effects of Tax Transparency: Does Country-by-Country Reporting Call for Arbitration?', *Journal of Accounting and Public Policy*, 49 (2025), 107278 https://doi.org/10.1016/j.jaccpubpol.2024.107278

[60] Thomas Tørsløv, Ludvig Wier, and Gabriel Zucman, 'Externalities in International Tax Enforcement: Theory and Evidence', *American Economic Journal: Economic Policy*, 15.2 (2023), 497–525 https://doi.org/10.1257/pol.20200200

[61] Xixi Zhang, 'Tax Arbitration and Foreign Direct Investments: A Comparison between Developed and Developing Countries', *SSRN Electronic Journal*, 2023 https://doi.org/10.2139/ssrn.4589031

internal and external mechanisms. The Australian Taxation Office (ATO) offers an internal review process; however, external avenues exist for more intricate or unresolved matters, including the Administrative Appeals Tribunal (AAT) and the courts.[62]

The Australian Taxation Office (ATO) has implemented a strategy and significant modifications to Australia's tax dispute resolution culture. This was implemented in response to the OECD's recommendations to enhance relationships with taxpayers. The ATO subsequently issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes, by the recommendations. The regulation specifies the principles and guidelines for the implementation of ADR. The regulation has simplified the process of resolving tax disputes for taxpayers, enabling them to do so in a cost-effective and timely manner.[63]

The ATO's primary objective in dispute resolution is to regularly plan for dispute resolution and resolve disputes through dispute policies. The Australian Taxation Office is dedicated to preventing and resolving conflicts in a timely, cost-effective, and straightforward manner while ensuring that the process is conducted politely and equitably. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online, which Tania Sourdin and Alan L. Shanks lead, assessed ADR at the Australian Taxation Office. The evaluation results indicate that ADR can reduce costs and save time. HMRC's evaluation results, which were obtained through investigations and numerous observations, have demonstrated that dispute resolution through mediation is a practical approach to resolving tax dispute deadlocks in the United States.[64]

Taxpayers can escalate disputes not resolved internally to the AAT or the courts. The AAT is frequently perceived as a more accessible alternative for taxpayers and offers a less formal setting than the courts. Taxpayers may be discouraged from pursuing court litigation unless necessary, as it can be costly and time-consuming despite providing a definitive resolution. Mediation has been integrated into the procedures of the AAT and the Federal Court of Australia, leveraging international best practices to enhance the efficacy of tax dispute resolution. Research has demonstrated that ADR can improve the perceptions of fairness and fair procedures, which is essential for all parties involved in adopting outcomes.[65]

The approach to resolving tax disputes differs substantially between the Administrative Appeals Tribunal (AAT) and court litigation. In contrast to the

[62] Hidayah.
[63] Saka Muhammed Olokooba, 'Resolving Tax Disputes Through the Alternative Dispute Resolution (ADR) Mechanisms', in *Nigerian Taxation* (Singapore: Springer Singapore, 2019), pp. 141–46 https://doi.org/10.1007/978-981-13-2607-3_12
[64] M. Kobetsky, 'The Status of the OECD Transfer Pricing Guidelines in the Post-BEPS Dynamic', *International Tax Studies*, 3.2 (2020) https://doi.org/10.59403/2rpcabz
[65] Afiyati and others.

adversarial nature of court litigation, the AAT offers a non-judicial administrative mechanism for reviewing decisions, emphasizing substantive review. This distinction is crucial for comprehending the procedural, accessibility, and efficiency disparities between the two systems. The AAT prioritizes informality and adaptability, frequently permitting a more inquisitorial approach in which the court actively investigates the facts of the case. This starkly contrasts the adversarial nature of court proceedings, in which the parties present their case to a judge who serves as an impartial arbiter.[66]

Additionally, mediation has been demonstrated to decrease the time and expenses necessary to resolve tax disputes, particularly for small and medium-sized individual taxpayers. Mediation can reduce the dispute resolution process from the standard 8-23 months to 61 days, a two-month reduction. In large and complex cases, mediation can also decrease the time and costs of resolving tax disputes. Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000.[67]

In contrast to the Indonesian system, tax dispute resolution in Australia offers numerous substantial benefits. Australia provides a diverse array of dispute resolution pathways that are more flexible and taxpayer-friendly, including administrative and alternative mechanisms, which do not always require a formal litigation process to conclude. An independent and non-judicial institution, the Administrative Appeals Tribunal (AAT), is one of the advantages. It enables the resolution of tax disputes more efficiently, straightforwardly, and cost-effectively than formal tribunals. Furthermore, the Australian Taxation Office (ATO) actively promotes the use of Alternative Dispute Resolution (ADR) methods, including mediation and negotiation, before the formal stage of dispute resolution. This approach expedites the resolution process without compromising the relationship between the tax authorities and taxpayers.[68] Additionally, the Inspector-General of Taxation (Tax Ombudsman) in Australia is an independent supervisor of tax administration services, enabling taxpayers to file complaints regarding maladministration or injustice.[69] Conversely, Indonesia's tax dispute resolution system relies on the objection path, appeal to the Tax Court, and cassation to the

[66] Illia YURIICHUK, 'Administrative Appeal as an Out-Of-Court Procedure for the Protection of the Rights of Individuals and Legal Entities', *European Journal of Law and Public Administration*, 6.1 (2019), 98–109 https://doi.org/10.18662/eljpa/67

[67] Sandra Aulia, 'Comparative Studies of Tax Administration on Transfer Pricing', *Journal of Governance and Administrative Reform*, 5.1 (2024), 39–51 https://doi.org/10.20473/jgar.v5i1.57398

[68] . and Gayo.

[69] Asherry Magalla and Joseph Augustine, 'The Law of Alternative Dispute Resolution in Tax Disputes in Tanzania A Lesson from Australia', *SSRN Electronic Journal*, 2021 https://doi.org/10.2139/ssrn.4123370

Supreme Court. This approach is characterized by a protracted process, increased costs, and restrictions on settlement mechanisms that are not part of the litigation path. Furthermore, the accountability of tax dispute services is suboptimal in Indonesia due to the absence of an independent supervisory authority. Consequently, the Australian system is more progressive and focuses on substantive justice, legal certainty, and administrative efficiency in resolving tax disputes.

Although Australia has established a tax dispute resolution system that emphasizes the preservation of taxpayer rights, flexibility, and speed through administrative and alternative channels, it is also crucial to examine the approach taken by other countries, such as Russia, in managing their tax dispute resolution programs. Russia presents an alternative approach, demonstrating a commitment to modernization to enhance transparency and efficiency while exhibiting robust administrative characteristics.[70]

The administrative appeal procedure is the initial step in resolving tax disputes in Russia. Before engaging in court litigation, taxpayers dissatisfied with the tax authorities' decision must initially submit an appeal to the Russian Federal Tax Service (FTS). This pre-trial procedure is mandatory and is designed to alleviate court congestion by resolving disputes within the tax administration. An administrative appeal entails the submission of a formal complaint that includes the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission evaluated the case and issued a decision within one month, a timeframe that may be extended in the event of complex cases. The taxpayer has the option to pursue legal action if they are dissatisfied. Although administrative appeals offer a more expedited resolution, critics contend that tax authorities are inclined to prioritize their assessments, which diminishes the impartiality of the process. However, the administrative stage continues to be a critical component of tax dispute resolution, as it enables the resolution of numerous cases without the involvement of a judge.[71]

Alternative dispute resolution (ADR) mechanisms are becoming more widely acknowledged even though Russia has historically relied on administrative and judicial processes. Dispute resolution can be expedited, and costs can be reduced through alternative dispute resolution, encompassing mediation, conciliation, and arbitration. In Russia, mediation in tax disputes is still in its infancy and is primarily employed in corporate tax cases. The Government is investigating

[70] Evgeniya Vasilyeva, 'On The Collection Of Tax Debt From Final Beneficiaries In Russia', 2019 https://doi.org/10.32008/NORDSCI2019/B2/V2/26

[71] л.И. Гаделышина, 'Legal Positions Of The Constitutional Court Of The Russian Federa Tion On Tax Disputes Based On The Materials Of The Resolutions Of 2020–2022', *Vestnik of Russian New University. Series 'Man and Society'*, 3, 2022, 40–52 https://doi.org/10.18137/RNU.V9276.22.03.P.040

methods to incorporate ADR into the general resolution of tax disputes, utilizing models from countries such as the United States and the United Kingdom.[72]

In Russia, the resolution of tax disputes is a multifaceted process encompassing pre-trial settlement, judicial proceedings, and emerging alternative dispute resolution mechanisms. A comprehensive framework for resolving disputes between taxpayers and tax authorities is necessary due to the complexity of the Russian tax system and the necessity of preventing corruption and ensuring compliance.[73] This framework is in a perpetual state of evolution to enhance tax administration's efficiency, transparency, and impartiality. Tax dispute resolution and pre-trial investigation are indispensable for preventing malfeasance and resolving taxpayer complaints. These procedures facilitate the resolution of legal errors and regulatory conflicts without the necessity of enduring protracted court proceedings. The resolution of tax disputes is significantly influenced by the judicial protection of taxpayers' rights. Taxpayers have the right to appeal the actions of tax authorities by the regulations of the Russian Tax Code, specifically, Article 138, which delineates the process for such appeals.[74]

Indonesia should contemplate adopting specific components of the Russian tax dispute resolution system, as it provides a pragmatic, modern, and efficient administrative approach, particularly when managing large volumes of tax disputes. Administrative resolution through the Federal Tax Service is a mandatory initial measure in Russia before taxpayers bring disputes to court. This process promotes a more expeditious resolution, alleviates the burden on the courts, and offers taxpayers and tax authorities the chance to resolve conflicts without escalating them. Furthermore, Russia has effectively incorporated information technology into its tax dispute resolution system by employing administrative digitization and e-justice. This has resulted in the acceleration of workflows, the enhancement of transparency, and the enhancement of accessibility to the legal process for taxpayers. The adoption of a technology-based administrative model, such as the one in Russia, will expedite the dispute resolution process, enhance public services, and fortify taxpayers' confidence in the national tax system in Indonesia, which continues to grapple with the backlog of cases in the Tax Court and the constraints of the electronic judicial system.[75]

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[72] A. Dontsova and E. Dolmatova, 'Judicial Protection of Taxpayer's Rights and Appeal Against Actions of Tax Authorities', *Bulletin of Science and Practice*, 6.1 (2020), 287–91 https://doi.org/10.33619/2414-2948/50/35

[73] М.В.И. КАЛОМБО and others, 'Challenges And Threats To The Tax Security Of The Russian Federation: Problems And Solutions', *Экономика и Предпринимательство*, 11(148), 2023, 321–24 https://doi.org/10.34925/EIP.2022.148.11.061

[74] Dontsova and Dolmatova.

[75] Razela N. Denikaeva, Evgeniy A. Pervyshov, and Alina M. Dinaeva, 'To The Question Of Pre-Judicial Settlement Of Tax Disputes', *EKONOMIKA I UPRAVLENIE: PROBLEMY, RESHENIYA*, 10/1.130 (2022), 116–21 https://doi.org/10.36871/ek.up.p.r.2022.10.01.016

Alternative Dispute Resolution (ADR) for tax disputes has also begun to be implemented in Russia, albeit less comprehensively and popularly than in countries such as the United States or Australia. The tax justice system in Russia continues to rely largely on administrative processes that the Federal Tax Service oversees. However, to alleviate the burden on the courts and offer a more efficient and expedited alternative to dispute resolution, a variety of alternative dispute resolution (ADR) methods have been implemented. Russia has initiated the development of mediation and informal negotiations to administratively resolve tax disputes despite the absence of a dedicated ADR institution for tax disputes. These procedures enable taxpayers and tax authorities to negotiate agreements without protracted legal proceedings.[76]

In Russia, the Alternative Dispute Resolution (ADR) field is expanding to offer a more efficient and less adversarial method of resolving conflicts between tax authorities and taxpayers. ADR mechanisms, such as mediation and arbitration, are currently being investigated as alternatives to conventional litigation, which is frequently costly and protracted. Although challenges persist in their implementation and acceptance, the Russian legal framework progressively integrates these methods to enhance tax dispute resolution.[77]

Tax mediation has been identified as a promising alternative dispute resolution (ADR) instrument despite its limited implementation. The legal framework for mediation in tax disputes is still being developed, and there are demands for more precise regulations to enhance its efficacy. The absence of a comprehensive legal framework that supports ADR in tax disputes in Russia is one of the primary obstacles to its implementation.[78] Furthermore, arbitration in Russia is regarded as a legal certainty and efficient process due to its seamless integration with international standards and practices. This is especially advantageous in international commercial disputes, where parties search for a dependable and predictable resolution process. Arbitration is also regarded as a legal certainty in Indonesia; however, it is more costly and time-consuming than mediation, another widely used dispute-resolution method in the country.

The resolution of tax disputes in Russia is frequently more flexible and expedited than the protracted litigation process in Indonesia, even though the ADR process is not as prevalent as in Australia. This not only alleviates the burden on the courts but also ensures that taxpayers have more equitable access to justice,

[76] Olokooba.

[77] Sergey A. Poryvaev, 'Review of the Practice of Administrative Proceedings in Cases of Challenging Actions (Inaction) and Decisions of the Control and Supervisory Bodies on Bringing to Administrative Responsibility', *Rossijskoe Pravosudie*, 9, 2022, 79–90 https://doi.org/10.37399/issn2072-909X.2022.9.79-90

[78] Mykhaylo Smokovych, 'Certain Aspects Of Administrative Proceedings In The Field Of Resolving Tax Disputes', *Slovo of the National School of Judges of Ukraine*, 1-2(38-39), 2022, 120–28 https://doi.org/10.37566/2707-6849-2022-1-2(38-39)-11

particularly in the case of minor disputes. By implementing this strategy, Indonesia can enhance access to justice for taxpayers, mitigate tensions, and establish a more positive relationship between tax authorities and taxpayers. To guarantee that the dispute resolution process is conducted equitably and transparently, Russia has a Tax Ombudsman who serves as an independent monitor. Indonesia currently lacks a comparable institution to supervise the entire tax dispute resolution process. By adopting this model, the Indonesian tax system can be enhanced in terms of transparency, accountability, and public confidence in tax policy.

***Indonesian Tax Dispute Resolution in a Cooperative Paradigm***

In Indonesia, the regulation of tax dispute resolution has not demonstrated any cooperative paradigm approach through administrative, legal initiatives (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts). Based on the experience of resolving tax disputes in tax tribunals and enhancing relations following the disagreement, Indonesia can implement dispute resolution using ADR.[79] Legal discovery is necessary to resolve these legal issues because the law has been unable to address the growing number of tax disputes and the need for taxpayers to obtain dispute resolution promptly. Indonesia can employ legal fiction as an alternative method of legal discovery to ascertain changes in the law, given the widespread implementation of tax dispute resolution through the cooperative paradigm in numerous countries. The primary objective of dispute resolution research will be to resolve disputes through administrative and legal processes rather than litigation.[80]

After reviewing the General Guidelines and Tax Procedures Law, it is possible to utilize ADR as a form of mediation when submitting an objection. A Taxpayer may file a letter of objection to the Director General of Taxes if they are dissatisfied with the tax determination imposed on them or with a reduction/collection by a third party. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer.[81] The procedure for filing an objection is governed by the following regulations: Article 25, paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of the Minister of Finance of the Republic of Indonesia Number 9/PMK.03/2013

[79] Gabriel Aliu, 'Modern International Tax Dispute Resolution – An African Perspective on the Mutual Agreement Procedure, Arbitration, and the Future', *Intertax*, 52.Issue 6/7 (2024), 476–92 https://doi.org/10.54648/TAXI2024049

[80] Žunić Kovačević.

[81] Kamran Abdullah, 'Enhancing Tax Dispute Resolution: A Proposal for Amendments to the Income Tax Ordinance 2001 for Strengthening Alternative Dispute Resolution Mechanisms', *Indus Journal of Law and Social Sciences*, II.II (2023), 10–14 https://doi.org/10.70540/ijlss.2023(II-II).02

regarding Procedures for Filing Objections, and is amended by PMK RI Number 202/PMK.03/2015.

Implementing mediation as an alternative dispute resolution (ADR) in conjunction with administrative and legal initiatives can foster communication characterized by transparency and familiarity. A mutually beneficial solution will be achieved through mediation, which involves the involvement of a third party in negotiations to ensure that both parties are satisfied. The third party is trusted and independent, and they can provide decision-making considerations that will assist in the peaceful resolution of disputes. The mediator will be able to facilitate a transformative process and a rapid resolution through mandatory mediation. The parties will be able to participate in the early phases of ADR with mediation before the litigation process.[82]

Mediation is voluntary due to its association with taxpayer rights. A new system must be established to reconcile the government's and taxpayers' interests, specifically, the legislative constraints that must be surmounted. Opportunities for resolving tax disputes through mediation may arise due to a collaborative relationship between taxpayers and tax agencies. The settlement can be conducted respectfully if it is established.[83] ADR is anticipated to expedite the dispute resolution process, thereby decreasing the number of tax disputes in the tax court and minimizing taxpayer losses in terms of time and costs during the justice-seeking process. The KUP can be modified in the future to facilitate mediation arrangements.[84]

The author recommends that the Directorate General of Taxation (DGT) incorporate ADR into its plan as a cost-effective and expedient method of resolving tax disputes. The utilization of ADR processes as a less confrontational method of dispute resolution may lead to a more favorable perception of the Directorate General of Taxation (DGT), thereby increasing voluntary compliance and reducing the time required for dispute resolution.[85] Tax authorities, including the IRS, ATO, and FNS, as well as the literature, provide support for the utilization of interest-based ADR methods, including facilitation and mediation, as a method of dispute resolution.[86]

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[82] Marco Greggi and Anna Miotto, 'The OECD Dispute Resolution System in Tax Controversies', *Laws*, 13.4 (2024), 45 https://doi.org/10.3390/laws13040045

[83] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 https://doi.org/10.53955/jsderi.v1i3.15

[84] A. Addamiano, 'Cross-Border Dispute Resolution in Tax Matters: A Luxembourg Overview', *European Taxation*, 64.11 (2024) https://doi.org/10.59403/1yg8h57

[85] F Moosa, 'Review of the New Alternative Dispute Resolution Process for Tax Disputes', *Tydskrif Vir Die Suid-Afrikaanse Reg*, 2023.4 (2023), 660–80 https://doi.org/10.47348/TSAR/2023/i4a4

[86] Giovanni Consolo, *Tax Dispute Resolution in the European Union* (Edward Elgar Publishing, 2024) https://doi.org/10.4337/9781035343362

Therefore, the tax dispute resolution system has the potential to be incorporated into the Directorate General of Taxes (DGT) Future State initiative as a result of the Directorate General of Taxes (DGT) endeavors to facilitate the use of ADR as a fair and efficient dispute resolution method. In light of the applicable regulatory mechanisms, resolving tax disputes in Indonesia is a protracted process. The DGT can also demonstrate a continued commitment to dispute resolution by including its dispute resolution plan in the DGT Strategic Plan, as demonstrated by the IRS, ATO, and FNS. Furthermore, the IRS, ATO, and FNS have shown that the revenue authorities' highest echelons should support a dispute resolution culture. This entails a more significant role for senior revenue authority members, such as the DGT Commissioner and the Head of Appeals, in genuinely advocating for a culture of dispute resolution and ADR in speeches, presentations, and other interactions with professional associations and other key stakeholders. ADR provides the potential to resolve tax disputes in a less confrontational manner. Nevertheless, both parties must actively participate and resolve this issue. This implies that ADR is likely to be effective in the future.[87]

Structural reforms must be implemented to the Tax Court's position to enhance the impartiality and efficacy of tax dispute resolution in Indonesia. The dualism of management between the Ministry of Finance and the Supreme Court generates legal uncertainty and provides an opportunity for executive intervention.[88] Indonesia must thoroughly integrate the Tax Court under the Supreme Court as part of the state administrative court, by the practices of the United States and Australia. This will involve preparing special procedural law (lex specialis) for tax disputes. The judicial institution must also recruit justices independently to ensure neutrality, professionalism, and accountability.[89]

Furthermore, Indonesia must implement alternative dispute resolution (ADR) mechanisms, including mediation and negotiation, within its tax system. The implementation of ADR, which has been demonstrated to be effective in Australia, the United States, and Russia, can expedite dispute resolution, alleviate the burden on the Tax Court, and establish a more harmonious relationship between taxpayers and tax authorities.[90] The General Provisions and Tax Procedures Law (UU KUP) must be amended to regulate ADR regulations expressly. This can be achieved by implementing mediation procedures before submitting cases to court.

[87] Li.

[88] Setiawan and others.

[89] Hizkia Ivan Nugroho, Novianti Lestari, and Rasji Rasji, 'Legal Protection Efforts for Taxpayers in the Tax Dispute Resolution Mechanism', *QISTINA: Jurnal Multidisiplin Indonesia*, 2.2 (2023), 839–45 https://doi.org/10.57235/qistina.v2i2.811

[90] Jasna Voje, 'The Limits to the Participation of the Taxpayer in Tax Dispute Resolution Procedure Under the Dispute Resolution Directive', *Intertax*, 48.Issue 2 (2020), 157–76 https://doi.org/10.54648/TAXI2020015

To enhance transparency and efficacy, the dispute resolution system must also expedite the implementation of digitalization.[91]

Establishing a Tax Ombudsman institution independent of the Directorate General of Taxation and the Ministry of Finance is essential for improving accountability in tax dispute resolution supervision. Adopting the Australian model, which includes an Inspector-General of Taxation, establishing a Tax Ombudsman in Indonesia will enhance the preservation of taxpayers' rights, foster voluntary compliance, and enhance public confidence in the tax system. This comprehensive reform will fortify Indonesia's status as a nation of law that prioritizes justice, legal certainty, and efficacy in resolving tax disputes.

## 4. Conclusion

The independence of the tax court is jeopardized by the disharmony between the Tax Court Law, the Judicial Power Law, and the KUP Law, which is prevented by tax settlement in Indonesia. In Indonesia, resolving tax settlements involves the following stages: approval, binding, lawsuits, and judicial review to the Supreme Court. The Tax Court's independence is enhanced by structural reform, as outlined in Constitutional Court Decision Number 26/PUU-XXI/2023. However, a conflict of interest was previously established by the dual guidance system from the Supreme Court and the Ministry of Finance. Significant challenges remain in resolving current tensions, including the accumulation of a large number of cases, the duration of the process, the high costs, and the centralization in Jakarta, which impedes accessibility. Furthermore, implementing the Alternative Dispute Resolution (ADR) mechanism in other nations, including the United States, Australia, and Russia, has demonstrated its capacity to enhance taxpayer trust, impartiality, and efficiency. Consequently, urgent reform is required to strengthen Indonesia's tax collection settlement system. This can be achieved by completely integrating the Tax Court into an independent judicial system under the Supreme Court, establishing a clear tax procedural legal framework, and adopting an ADR mechanism. Implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation, is necessary to facilitate the resolution process and alleviate the burden on the Tax Court in Indonesian tax settlement. Besides that, the Directorate General of Taxes (DGT) is advised to incorporate ADR into its strategic plan and redefine the Tax Court's role to ensure greater independence and integration with the Supreme Court. The accelerated implementation of ADR and digitalization will enhance the relationship between tax authorities and taxpayers and strengthen a fair and efficient tax system by increasing transparency and accountability.

[91] Ehab Farah, 'Mandatory Arbitration of International Tax Disputes: A Solution in Search of a Problem', *Florida Tax Review*, 9.8 (2022) https://doi.org/10.5744/ftr.2009.1008

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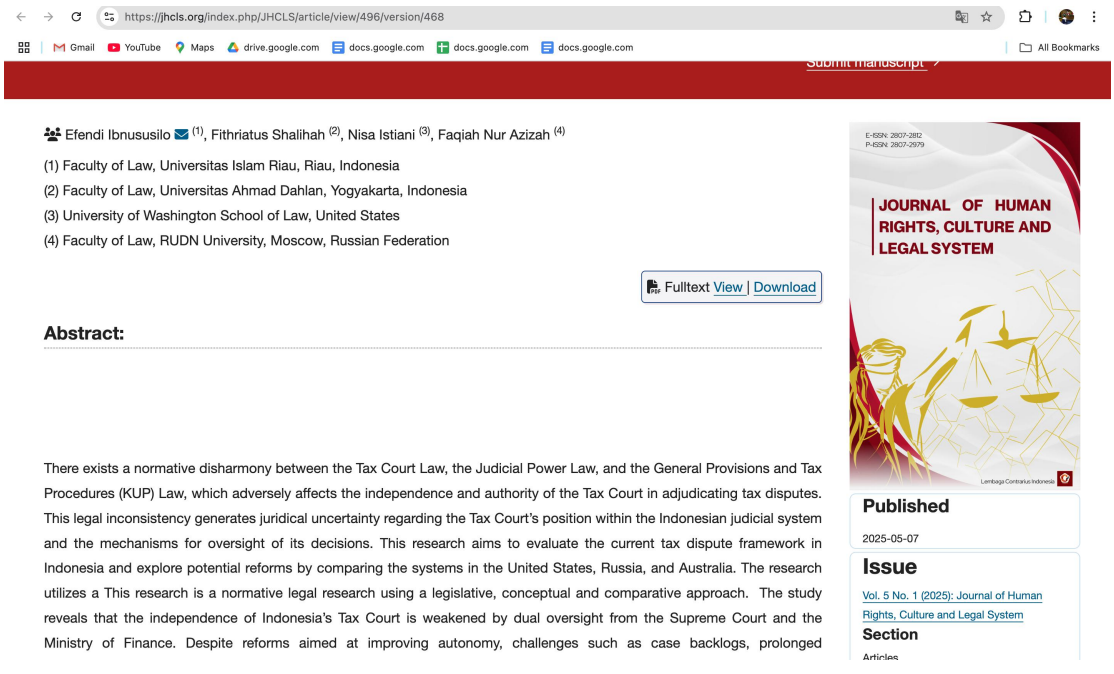

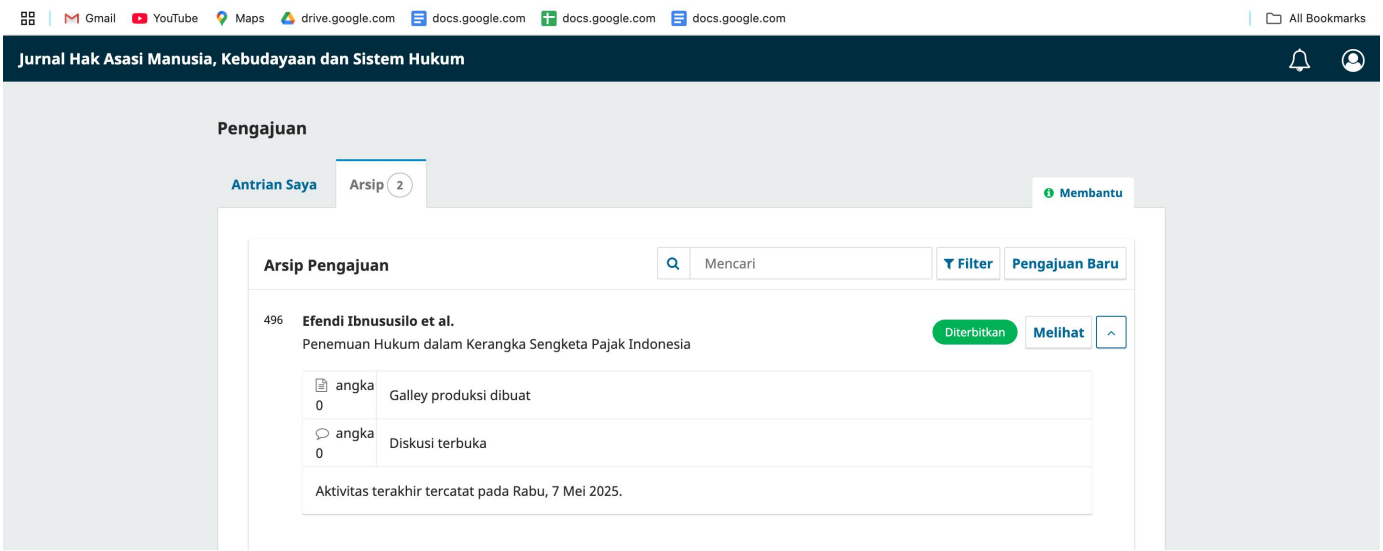
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# Artikel Final

# Legal Discovery in Indonesia's Tax Dispute Framework

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ABSTRACT (10PT)

There exists a normative disharmony between the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures (KUP) Law, which adversely affects the independence and authority of the Tax Court in adjudicating tax disputes. This legal inconsistency generates juridical uncertainty regarding the Tax Court's position within the Indonesian judicial system and the mechanisms for oversight of its decisions. This research aims to evaluate the current tax dispute framework in Indonesia and explore potential reforms by comparing the systems in the United States, Russia, and Australia. The research utilizes a This research is a normative legal research using a legislative, conceptual and comparative approach. The study reveals that the independence of Indonesia's Tax Court is weakened by dual oversight from the Supreme Court and the Ministry of Finance. Despite reforms aimed at improving autonomy, challenges such as case backlogs, prolonged proceedings, high litigation costs, and limited regional access remain. These findings highlight the urgent need for systemic reform. Drawing on international examples from the United States, Australia, and Russia, the integration of Alternative Dispute Resolution (ADR) mechanisms could significantly improve efficiency, fairness, and public trust in the tax system. Aligning the Tax Court fully under the Supreme Court and adopting ADR would strengthen institutional integrity.

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## 1. Introduction

The accumulation of funds required to advance this archipelago is one of the numerous critical functions of the Indonesian tax system. Nevertheless, disputes between tax officials and taxpayers may arise. Disputes occur when there is a disagreement regarding the interpretation of tax regulations, the amount of tax that should be paid, or the execution of administrative duties.[1] Disputes of this nature are inevitable due to the complexity of tax law and the numerous factors that must

[1] A.A Gede Diotama, I Nyoman Putu Budiartha, and Ida Ayu Putu Widiati, 'Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung', *Jurnal Konstruksi Hukum*, 3.1 (2022), 153–59 https://doi.org/10.22225/jkh.3.1.4411.153-159

be considered. Tax dispute resolution is critical for establishing an equitable and effective tax system that elucidates the law for all parties.[2]

One of the Tax Court's critical functions is to offer legal certainty to taxpayers and parties involved in tax disputes. The Tax Court is the initial and/or final level of review and determination in tax disputes.[3] In the event that a Tax Court decision is unchallengeable at the General Court, State Administrative Court, or any other judicial body, with the exception of a decision stating "Not acceptable" regarding authority/competence, a judicial review may be sought from the Supreme Court.[4] Two institutions, the Supreme Court and the Ministry of Finance, are involved in the Tax Court's position in Indonesia. As stipulated in Law No. 14 of 2002 regarding the Tax Court, the Ministry of Finance is responsible for the organizational, administrative, and financial aspects, while the Supreme Court is responsible for the technical-judicial aspects. The Tax Court is distinguished from the legal system as a whole by several characteristics that are related to the tax dispute resolution procedure. This court is responsible for evaluating and resolving disputes between tax officers and taxpayers.[5]

Even though "Law No. 14 of 2002" has established a well-defined framework for tax dispute resolution, it remains ineffective due to numerous insurmountable obstacles. Indonesia's administrative tax dispute resolution system does not offer disputing parties the opportunity to pursue conventional legal remedies. Instead, it provides the Supreme Court with an unconventional legal remedy through judicial review. Consequently, taxpayers find it more challenging to obtain justice, particularly in cases where tax officials' decisions are perceived as unjust. Furthermore, it is crucial to adhere to tax regulations and consider the consequences of unfair choices, as both have the potential to discourage individuals and organizations from violating tax provisions. The Directorate General of Taxes should revoke the business licenses of individuals who violate the law to motivate more individuals to pay their taxes. The Directorate General of Taxes (DGT) frequently fails to resolve tax-related matters. This is primarily attributable to the fact that taxpayer documentation is insufficient or regulations are not enforced consistently. PT Tirta Investama, for instance, was subject to financial adjustments by the DGT due to non-compliance with the provisions

[2] Yuli Trisnawati and Siti Nuryanah, 'Evaluating The Effectiveness Of Tax Objection Review In Indonesia's Tax Authority', *Jurnal Akuntansi Dan Keuangan Indonesia*, 19.1 (2022), 68–95 https://doi.org/10.21002/jaki.2022.04

[3] Tumian Lian Daya Purba and Dian Rahadian, 'Penyelesaian Sengketa Pajak Pada Kantor Pelayanan Pajak Kota Jayapura', *JURNAL EKOLOGI BIROKRASI*, 6.3 (2019), 11–22 https://doi.org/10.31957/jeb.v6i3.780

[4] Reni Ratna Anggreini, 'Relasi Mahkamah Agung Dan Pengadilan Pajak Dalam Kekuasaan Kehakiman', *Jurnal Lex Renaissance*, 6.3 (2021) https://doi.org/10.20885/JLR.vol6.iss3.art8

[5] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331–35 https://doi.org/10.22225/ah.2.3.2521.331-335

recorded during the audit and the absence of documentation indicating management services provided by Danone Asia Pte Ltd.[6]

The resolution of tax disputes must be more consistent with the judicial system as a whole, as per the provisions of "Law No. 48/2009 on Judicial Power." An independent judicial authority is a critical prerequisite for the establishment and resilience of a state founded on the rule of law. In the absence of an independent judicial power, the authorities will have the opportunity to abuse power and neglect human rights, particularly due to the influence of government (executive)power.[7] The 1945 Constitution (hereinafter referred to as the 1945 Constitution) Article 24 Paragraph (2) regulates judicial power as follows: "Judicial power is exercised by the Supreme Court and judicial bodies under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and by a Constitutional Court." Additionally, Law Number 48 of 2009 (hereinafter referred to as the Judicial Power Law) Article 25 specifies that the judicial bodies under the Supreme Court include judicial bodies in the general judicial environment, religious judicial environment, military judicial environment, and state administrative, judicial environment.[8]

The institutions authorized to exercise judicial power have been mentioned in a limited manner (limitation) about the provisions. In other terms, the Constitution explicitly specifies the judicial institutions that exist. The courts must be located in one of the judicial environments under the Supreme Court, such as the general judicial environment, religious courts, military courts, or state administrative courts, despite the existence of courts that the Constitution does not stipulate. On the other hand, the tax court's position is ambiguous by Law Number 14 of 2002 concerning the Tax Court (hereinafter referred to as the Tax Court Law). Article 2 of this law states that "the tax court is a judicial body that exercises judicial power for taxpayers or tax payers who seek justice for tax disputes." Consequently, the Judicial Power Law lacks synchronicity, as only four courts are listed in Article 25 above.[9]

The Tax Court is an administrative court (judicial control) that offers legal protection to individuals who experience disadvantage due to state administrative

[6] Daniel Edgar Hirasma Saragi, 'Mengapa DJP Kalah Dalam Sengketa Pajak? Studi Kasus Pada Perusahaan Air Minum Dalam Kemasan', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 8.1 (2024), 27–51 https://doi.org/10.31092/jpi.v8i1.2720

[7] Vidyatika Dwi Listanti, 'Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024', *Jurnal Indonesia Sosial Sains*, 6.1 (2025), 286–99 https://doi.org/10.59141/jiss.v6i1.1549

[8] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court', *Global Conference on Business and Social Sciences Proceeding*, 13.1 (2022), 1–1 https://doi.org/10.35609/gcbssproceeding.2022.1(95)

[9] Basuki Kurniawan and Nita Ryan Purbosari, 'Penyelesaian Disharmoni Peraturan Perundang-Undangan Melalui Jalur Mediasi', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyyah Fakultas Syariah IAIN Mataram*, 14.1 (2022), 83–96 https://doi.org/10.20414/alihkam.v14i1.4734

decisions in the form of stipulations (*beschikking*) issued by officials or State Administration bodies when viewed from a hierarchical perspective. Essentially, the Tax Court is anticipated to be able to offer a sense of justice to the disadvantaged party, which is the community in this instance. However, numerous issues have arisen in the process, including the regulatory system governing the Tax Court and the institutions and guidance.[10]

The "two-roof" Tax Court has implications for the Tax Court's performance. It raises several issues related to the recruitment of judges, supervision, development of judges, and their supporting resources, as well as the embodiment of the principles of transparency and openness of public information. Therefore, the Tax Court should be reformed to become a "one-roof" and independent judicial institution. The Supreme Court is responsible for the technical development of the judiciary and the organization, administration, and finance. The Tax Court's "one roof" construction is a distinct design that is a special court under the State Administrative Court.[11]

The Ministry of Finance, the Supreme Court, and the Judicial Commission's overlapping supervisory responsibilities can result in the rejection of supervision by any agency that will supervise based on the authority of the supervisory agency. The independence of the tax court will be impacted by guidance on one side in the Supreme Court (as a judicial institution) and on the other side in the Ministry of Finance (as an executive institution). This causes a contradiction, as the Ministry of Finance, which carries out executive functions, also carries out judicial functions when a tax dispute arises. The two institutions should be distinct to function as separate entities that regulate or supervise one another. Conditions arise to oversee the institution itself in such situations.[12]

The Tax Court, an appellate court by universally applicable Legal Science, as stipulated in Article 27 of the Judicial Power Law, emphasized its existence and independence. As a special court, it is appropriate to have its procedural law, as each court has its procedural law that guides law enforcers and judges to exercise judicial power. Additionally, the Tax Court's independence is evident in the nature and type of decisions it renders and the recruitment of Tax Court Judges.[13] Institutional ambiguity is generated by the contradiction between the Tax Court

[10] Dien Hanifa, Arrisman Arrisman, and Imam Haryanto, 'The Existence of Tax Courts in Indonesia From the Colonial Era, Independence, to Reformation', *Asian Journal of Social and Humanities*, 2.7 (2024), 1461–70 https://doi.org/10.59888/ajosh.v2i7.279

[11] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175 (2018), 012203 https://doi.org/10.1088/1755-1315/175/1/012203

[12] Rustian Mushawirya, 'The Tax Dispute Settlement According To Justice And Court System In Indonesia', *Nurani Hukum*, 2.2 (2020), 62 https://doi.org/10.51825/nhk.v2i2.6549

[13] Burhanudin Yusuf, Feriadi, and Anita Indriawati, 'Tax Disputes in the Digital Era: Challenges and Opportunities Toward Legal Certainty', *Jurnal Dedikasi Hukum*, 4.2 (2024), 170–86 https://doi.org/10.22219/jdh.v4i2.35351

Law (Law No. 14/2002) and the Judicial Power Law (Law No. 48/2009), which designates the Tax Court as a component of the PTUN.[14]

Vertical and horizontal disharmony in the tax law system are the consequences of the inconsistency between the Tax Court Law, the Law on General Provisions and Tax Procedures (KUP), the Judicial Power Law, and other technical regulations (PMK, Regulation of the Director General of Taxes"). The absence of a distinct, rigorous, and systematic procedural law (*lex specialis*) for the Tax Court results in legal uncertainty, inconsistent application of legal principles, and procedural irregularities for taxpayers and the Directorate General of Taxes. This undermines the equity and legal certainty of dispute resolution. The suboptimality of the ideal dispute resolution mechanism in a country based on the rule of law is also reflected in this condition, raising concerns about guaranteeing objectivity and justice for taxpayers. Consequently, it is imperative to conduct a more comprehensive examination of a variety of alternative dispute resolutions that not only address the requirement for procedural efficiency but also ensure independence, accountability, and substantive justice in practice.[15]

Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution. Therefore, to mitigate the escalation of conflicts and enhance their relationship with taxpayers, international tax authorities are inclined to implement various initiatives, including alternative dispute resolution (ADR) procedures, to resolve tax disputes without litigation.[16] The primary objective of the ADR process is to facilitate the earlier resolution of tax disputes or the entire prevention of tax disputes. This approach offers both parties increased certainty and the capacity to allocate limited resources.[17] Additionally, the transition to alternative dispute resolution (ADR) processes in tax dispute resolution is generally consistent with a shift in the culture of tax authorities from "command and control" to one intended to foster trust, support, and respect within the community. This shift in culture, in turn, promotes voluntary compliance.[18]

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[14] Farel Rifandanu, 'Implikasi Putusan Mahkamah Konstitusi Nomor 26/PUU-XXI/2023 Terhadap Pembinaan Pengadilan Pajak', *Amnesti: Jurnal Hukum*, 6.1 (2024), 145–61 https://doi.org/10.37729/amnesti.v6i1.3270

[15] Agus P. Priyono Henry DP Sinaga, 'Is Administrative Justice A Problem-Solving of Tax Dispute?', *Jurnal Tax Law and Policy*, 1.1 (2022), 54–66 https://doi.org/10.56282/jtlp.v1i1.63

[16] Ardiansyah Ardiansyah, 'Comparative Study of The Implementation Of Alternative Disputes Resolution (Adr) In Tax And Customs Disputes In Indonesia', *Journal Evidence Of Law*, 1.1 (2022), 55–69 Https://Doi.Org/10.59066/Jel.V1i1.15

[17] Muhammad Ghifari, 'Alternatif Dispute Resolution to Reduce Costs, Energy, And Time Issued by DJP Taxpayer or Dispute Settlement in Taxation', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14821

[18] I Nyoman Wara, Dumaria Simanjuntak, and Reny Yemimalina Sinaga, 'Conflict of Interests in Declaring State/Regional Loss of Tax Income in Indonesia', *Jurnal Tata Kelola Dan Akuntabilitas Keuangan Negara*, 9.2 (2023), 349–66 https://doi.org/10.28986/jtaken.v9i2.1340

Additionally, the tax authorities' implementation of the ADR process is consistent with the dispute systems design (DSD) concept, which is a deliberate endeavor to enhance how organizations manage conflicts by organizing dispute resolution processes clearly and strategically. Consequently, the utilization of ADR to improve the efficiency and effectiveness of tax administration and to facilitate the resolution of disputes with tax authorities or to alleviate concerns is the fundamental objective of DSD, which is to reduce the costs of dispute resolution and to produce more durable and satisfactory resolutions.[19]

The efficiency and fairness of tax dispute resolution can be substantially enhanced by implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation. Mediation has been effectively implemented in Australia, Russia, and the United States. Its implementation in Indonesia can potentially reduce the backlog of cases and provide a more cost-effective solution for taxpayers. The U.S. Tax Court, a specialized tax court not affiliated with the IRS (tax authority), already exists in the United States. Consequently, taxpayers can register a lawsuit with the Tax Court before paying taxes, allowing them to access justice without the initial financial burden. An ADR system that is implemented efficiently and is beneficial to taxpayers can expedite settlement without placing an undue burden on the court. The Administrative Appellate Tribunal (AAT) is an independent an independent non-judicial administrative appeal forum in Australia with significant authority. The ATO (Australian Tax Office) also facilitates mediation and informal settlement as a first step, and the Tax Ombudsman (Inspector-General of Taxation) supervises tax dispute resolution services. The accountability and public trust are fortified by the participation of this independent supervisory authority (Ombudsman). The majority of tax disputes in Russia are initially resolved through administrative review at the tax authority (Federal Tax Service). Russia has demonstrated advancements in the efficacy and modernization of dispute resolution, particularly through the implementation of legal technology (e-justice), even though the system is not as autonomous as those of the United States or Australia.

Given the successful implementation of various alternative dispute-resolution methods in numerous countries, conducting a more comprehensive analysis of the techniques used in previous studies is crucial. The Tax Court Law is less appropriate in providing legal protection for tax dispute resolution than the generally applicable judicial system, as previous research by Rustian Mushawirya demonstrated that the tax dispute resolution mechanism is, in principle, not by the generally applicable judicial system. The Ministry of Finance's recruitment of Tax Court judges and the process of organizational, financial, and administrative development of the Tax Court can present an opportunity for tax officials to intervene in the tax dispute process. This directly opposes Article 11 paragraphs (1)

[19] Noviansyah and Sabela Gayo, 'The Use of Mediation as Alternative Tax Dispute Resolution', *International Journal of Research and Review*, 10.1 (2023), 133–43 https://doi.org/10.52403/ijrr.20230114

and (2) of Law Number 35 of 1999, which mandates and confirms that the Supreme Court is responsible for the judicial environment's organizational, financial, and administrative development.[20] Subsequently, Heriantonius Silalahi et al. conducted research demonstrating tax professionals' critical role in reducing risk, assuring compliance, and navigating intricate legal frameworks. Their cooperation is essential for the reduction of financial penalties, the expedition of dispute resolution, and the enhancement of taxpayer confidence. A more effective tax administration system can be achieved by enhancing the synergy between these professions, promoting fairness and legal certainty, and increasing taxpayer confidence in the Indonesian tax regime.[21] Furthermore, Khoirul Hidayah's investigation identified social issues associated with the growing number of unresolved tax collections at the Tax Court. In this investigation, mediation was implemented as an alternative dispute resolution method for tax settlements in Indonesia. Administrative and legal efforts are anticipated to facilitate the rapid and courteous resolution of disputes through mediation. Additionally, mediation is expected to enhance the relationship between taxpayers and the Directorate General of Taxes and increase the voluntary compliance of taxpayers following the conflict. He also stated that Indonesia has not regulated mediation in the resolution of tax settlements. Consequently, modifications must be made to the Law on General Provisions and Tax Procedures to establish mediation regulations.[22]

Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General Tax Provisions, and the effect they have on the independence of tax court institutions.[23] Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General

[20] Mushawirya.
[21] Heriantonius Silalahi and others, 'The Influence of Tax Dispute Resolution Mechanisms: Legal Contributions of Tax Consultants and Tax Attorneys in Indonesia', *Ilomata International Journal of Tax and Accounting*, 6.1 (2025), 25–52 https://doi.org/10.61194/ijtc.v6i1.1597
[22] Hidayah.
[23] Heru Setiawan and others, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263–98 https://doi.org/10.53955/jhcls.v4i2.263

Tax Provisions, and the effect they have on the independence of tax court institutions.

## 2. Research Method

This research is normative legal research, which employs legal, conceptual, comparative, and Methods of Systematic Literature Review. Systematic literature review is a methodology that entails examining and interpreting a collection of pertinent literature, including previously published journals, emphasizing the theory being discussed within a specific context.[24] Efforts to resolve tax settlements in Indonesia, as regulated by the Tax Administration Law and the Tax Court Law, are examined in this study using the regulatory-statutory approach. The cooperative paradigm recommended by the OECD is employed to investigate the concept of tax settlement in the conceptual approach. The tax settlement models employed by the United States, Australia, and Russia are summarized in the comparative approach.[25] Legal, conceptual, case, analytical, and philosophical methodologies are implemented. The document study method is the selected data collection strategy for this investigation.[26] The data utilized is secondary data derived from literature investigations, primary legal materials, including legal theories and laws. Books, articles, and research findings comprise secondary legal materials in addition to conducting additional research on primary legal materials from a theoretical perspective and examining their practical application.[27] Indonesia's tax disputes are resolved through various legal sources, including international practices, legal principles, and laws and regulations. The researcher initially details the administration and regulation of tax settlements in the United States, Australia, and Russia using the cooperative paradigm in the discussion. Then, the researcher employs qualitative legal methods to conduct identification and analysis. The researcher employs the legal fiction method to identify relevant regulations.[28]

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[24] Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 https://doi.org/10.53955/jhcls.v4i3.396

[25] Aditia Syaprillah and Fuad Shehab Shyyab, 'Legislative Framework for Decentralized Administration in Addressing River Pollution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 55–77 https://doi.org/10.53955/jsderi.v3i1.39

[26] Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas, and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 https://doi.org/10.53955/jsderi.v2i3.48

[27] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 https://doi.org/10.22219/ljih.v30i1.20764

[28] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14713

## 3. Results and Discussion

### *Tax Dispute Resolution System in Indonesia*

Tax disputes in Indonesia result from disagreements between tax authorities and taxpayers regarding tax obligations. The Tax Court is a significant player in resolving these disputes, which involve a combination of administrative and judicial processes. The Indonesian Tax Court's practice of resolving tax disputes is based on or still employs Law Number 14 of 2002, even though the Tax Court's position has been updated. The Tax Court is a Special Court within the State Administrative Court, as defined by Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. The change in its position undoubtedly impacts the litigation procedures in the Tax Court (its Procedural Law). In reality, there has been no subsequent action, so the resolution of tax disputes continues to be governed by Law Number 14 of 2002.[29]

The legal remedy of Judicial Review to the Supreme Court is regulated in Chapter IV Article 34 to Article 42 of Law Number 14 of 2002, which also governs the resolution of tax disputes through the Tax Court. A decision is the subject of a lawsuit or appeal letter. The present Tax Court is a historical advance over the Tax Dispute Resolution Agency (BPSP), the previous Tax Court institution. The Tax Court lodged a legal remedy of Judicial Review with the Supreme Court to address the deficiencies and weaknesses of the BPSP, particularly the implementation of the judicial system with tiered examinations to the Supreme Court.[30] The Tax Court is responsible for examining and deciding on disputes over objection decisions in resolving tax disputes unless otherwise specified by applicable laws and regulations. The Tax Court conducts an examination and determination of disputes concerning the implementation of tax collection on Correction Decisions or other Decisions in a lawsuit, as outlined in Article 23, Paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures. This law has been amended numerous times, most recently by Law Number 16 of 2000, and is subject to all relevant tax laws and regulations.[31]

In Indonesia, the resolution of tax disputes is subject to various channels and institutions, including the administrative objection process, litigation filed with the Tax Court, and judicial review proceedings before the Supreme Court. The

[29] Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 https://doi.org/10.1063/5.0202042

[30] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Examining the Factors That Affect the Loss of Tax Disputes in the Tax Court', *GATR Accounting and Finance Review*, 7.2 (2022), 97–112 https://doi.org/10.35609/afr.2022.7.2(3)

[31] Maria R. U. D. Tambunan and Gabriel Muara Thobias Silalahi, 'Article: Resolving Conflicts Between Production Sharing Contracts and Tax Treaties in Indonesia', *Intertax*, 52.Issue 2 (2024), 154–62 https://doi.org/10.54648/TAXI2024022

settlement of tax disputes acknowledges two mechanisms: dispute resolution through administrative efforts, specifically through the objection institution, and through the judicial institution, the Tax Court. The formal regulations in tax law clearly explain the provisions about the institutions responsible for resolving tax disputes.[32]

The principle of judicial independence governs the Tax Court, even though the Supreme Court and the Ministry of Finance historically supervise its organizational, administrative, and financial management. Nevertheless, the Tax Court is now entirely under the supervision of the Supreme Court due to Constitutional Court Decision Number 26/PUU-XXI/2023. This has resulted in an increase in the court's independence and impartiality in resolving tax disputes. The Tax Court's structure has been affected by a variety of reforms, including the transfer of organizational, administrative, and financial authority from the Ministry of Finance to the Supreme Court by Constitutional Court Decision Number 26/PUU-XXI/2023.[33]

The stages of tax dispute resolution in Indonesia typically adhere to a series of formal steps by the relevant laws and regulations, which are specifically outlined in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law.[34] Administrative/objection, appeal, lawsuit, and judicial review are among the stages of tax dispute resolution. Without the court's involvement, the objection stage is resolved within the internal scope of the Directorate General of Taxes (DGT). Tax administration, which encompasses tax dispute resolution, is the responsibility of the Directorate General of Taxes (DGT) within the Ministry of Finance. Before they are submitted to the Tax Court, DGT manages objections and appeals.[35] The DGT is also involved in implementing alternative dispute resolution mechanisms, such as mediation, to facilitate the peaceful resolution of tax disputes. The objective is to offer taxpayers the chance to express their dissatisfaction with tax decisions through administrative channels before proceeding to the legal (judicial) process.[36]

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[32] Nataša Žunić Kovačević, 'Effectiveness of Tax Dispute Resolution Mechanisms – The Impact of the European Legal Framework on National Jurisdiction', *Law, Identity and Values*, 4.1 (2024), 271–91 https://doi.org/10.55073/2024.1.271-291

[33] Listanti.

[34] Reza Octavia Kusumaningtyas and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 https://doi.org/10.53955/jsderi.v1i2.7

[35] Al Fadilla Yoga Brata and Rakotoarisoa Maminiaina Heritiana Sedera, 'The Implementing a Carbon Tax as a Means of Increasing Investment Value in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 39–50 https://doi.org/10.53955/jsderi.v1i2.6

[36] Anis Muhamad, Ramlani Lina Sinaulan, and Khalimi Khalimi, 'Mediasi Sebagai Alternatif Penyelesaian Sengketa Pajak', *SENTRI: Jurnal Riset Ilmiah*, 2.11 (2023), 4667–76 https://doi.org/10.55681/sentri.v2i11.1778

The administrative stage/objection stage involves negotiations and mediation between tax authorities and taxpayers to establish a settlement agreement. If a settlement is not reached, taxpayers can appeal to the court or a special arbitration body designated to resolve the dispute. To enhance the efficacy of tax dispute resolution, it is crucial to establish a legal framework that is both transparent and unambiguous, as well as to establish an efficient and equitable process. The Tax Court is authorized to manage both litigation concerning tax collection and appeals against tax assessment decisions. The court's decision is legally binding and ensures legal certainty for tax authorities and taxpayers. Tax dispute resolution is a legal procedure designed to resolve disputes between tax authorities and taxpayers that arise concerning disagreements over tax obligations.[37]

The judicial process in the Tax Court is intended to be straightforward, efficient, and cost-effective. However, in practice, the process can be lengthy and intricate due to the complexity of tax disputes and the extensive number of cases.[38] However, One of the Tax Court's most significant challenges is the substantial number of unresolved cases. Due to the considerable increase in tax disputes, the Court has faced significant challenges in meeting the demand. This has led to delays in the resolution of cases, which can be discouraging for taxpayers and erode their trust in the tax system.[39] The tax court system in Indonesia is experiencing a significant backlog of cases, resulting in delays and increased costs for taxpayers seeking a resolution. The tax court's dual-guided system exacerbates the situation by impacting its independence and efficacy.[40]

In Indonesia, tax tribunals are subject to a dual guidance system, which involves the Supreme Court providing technical-judicial guidance and the Ministry of Finance providing organizational, financial, and administrative guidance. This dualism raises concerns regarding the independence of the tax tribunals, as it may result in conflicts of interest and bias in decision-making. Differing interpretations of tax laws and regulations and aggressive tax audit behavior frequently result in disputes. The tax court system lacks the specialized knowledge and consistent application of legal principles necessary to address this complexity.[41] Mostly, case resolution is the primary objective of the tax courts'

[37] Yi Li, 'Reform and Innovation of International Tax Dispute Resolution Mechanisms', *Beijing Law Review*, 15.03 (2024), 1143–57 https://doi.org/10.4236/blr.2024.153069

[38] Dyah Nur Sasanti and Hetty Tri Kusuma Indah, 'Problematika Penyelesaian Sengketa Di Pengadilan Pajak Dalam Rangka Perwujudan Peradilan Sederhana, Cepat, Dan Biaya Ringan', *Reformasi Hukum*, 26.1 (2022), 21–38 https://doi.org/10.46257/jrh.v26i1.256

[39] Hanifa, Arrisman, and Haryanto.

[40] Sari and Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court'.

[41] Maria R.U.D. Tambunan, 'Transfer Pricing Settlement in Indonesia: A Note for Tax Authority, Tax Court, and Taxpayers Based on the Tax Court Decisions', *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi Dan Organisasi*, 29.2 (2022) https://doi.org/10.20476/jbb.v29i2.1306

dispute resolution process instead of problem-solving. This leads to recurring disputes and fails to address the underlying causes of disputes between tax authorities and taxpayers.[42]

Currently, taxpayers must pay a portion of the disputed tax upfront, as the dispute resolution procedure is costly and protracted. The process is multifaceted and may require several years to conclude, encompassing objections, appeals, and reviews. In the interim, the Tax Court is exclusively situated in Jakarta, the capital, which presents logistical difficulties for taxpayers from other regions. This centralization leads to an increase in taxpayers' time and travel expenses, rendering the process more cumbersome and less accessible.[43] In general, the Indonesian tax court system's systemic inefficiencies are predominantly the result of a combination of legal, administrative, and structural challenges.

The intricate interactions between the tax court's organizational framework and the broader judicial and executive systems exacerbate these inefficiencies.[44] Administrative deficiencies, legal inconsistencies, and the tax court's distinctive position within the Indonesian legal framework all contribute to its operational inefficiencies. The tax court operates under a unique legal framework that excludes it from the traditional judicial hierarchy, resulting in a lack of integration with the broader judicial system. This separation leads to a lack of independence and conflicts of interest, as the tax court is not entirely under the jurisdiction of the Supreme Court and is instead influenced by the Ministry of Finance. Consequently, there is a risk of weak oversight and control.[45]

The substantial number of tax disputes significantly impacts the efficacy of the tax courts in Indonesia. The dual guidance system exacerbates these challenges and the dispute resolution process's high case volume, complexity, and inefficiencies. Nevertheless, potential reforms, including decentralization and alternative dispute-resolution mechanisms, could enhance the system's efficacy and accessibility.[46] Comprehensive legal and structural reforms are required to guarantee the independence and integration of the tax courts into the broader judicial system, which will result in substantial improvements. Furthermore, it

[42] Henry DP Sinaga.

[43] R. O. Fatianov, 'The Principles Of Tax Dispute Resolution', *Juris Europensis Scientia*, 5, 2023, 75–78 https://doi.org/10.32782/chern.v5.2023.15

[44] Dharma Setiawan Negara and others, 'Reorganization Of The Tax Court Within The State Administrative Court Post Constitutional Court Decision No 26/PUU-XXI/2023', *IBLAM LAW REVIEW*, 3.2 (2023), 234–41 https://doi.org/10.52249/ilr.v3i2.323

[45] Nafis Dwi Kartiko and Agustin Widjiastuti, 'Reducing Socio-Economic Disparities in Indonesia: Strengthening the Taxation Sector in Indonesia', *Activa Yuris: Jurnal Hukum*, 3.1 (2023) https://doi.org/10.25273/ay.v3i1.15912

[46] Dinda Agustin Wulandari, Abdul Kadir Jaelani, and Hilaire Tegnan, 'Income Tax Regulations for Child Content Creators of TikTok Platform: Inefficacy of Indonesian Legal Frameworks', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 169–91 https://doi.org/10.53955/jsderi.v2i2.35

will be essential to resolve these systemic inefficiencies by fostering public trust and compliance through effective administration and transparency.

***Tax Dispute Resolution System in the United States, Australia, and Russia***

It is crucial to compare Indonesia's tax dispute resolution mechanisms with those in the United States, Australia, and Russia, as the three countries represent differing legal systems. This comparison offers a comprehensive perspective on the development of reforms. The U.S. Tax Court is an independent tax court that effectively assures access to justice without an initial financial burden for taxpayers, as the United States relies on its standard law system. Australia employs a hybrid approach that emphasizes alternative dispute resolution (ADR) through institutions like the Administrative Appeals Tribunal and the Tax Ombudsman. This approach enables the expeditious resolution of disputes outside of the formal court process. In the interim, Russia, a nation with a robust civil law tradition, has exhibited efficacy in modernizing the legal system through digital technology and implementing internal administrative resolution mechanisms.[47]

The tax system in the United States is typically self-assessed. A taxpayer's tax liability is self-assessed when they submit a tax return. The Internal Revenue Service (IRS) employs a variety of mechanisms to promote self-assessment, such as penalties for failure to file and subpoenas. Specific facts are typically reported in tax returns, which are used to determine the tax liability and the tax calculation. This self-assessment remains essentially unaltered. However, tax returns are annually chosen for auditing based on a computer assessment process, inconsistency with other related tax returns, or at random. Additionally, numerous substantial corporations undergo routine audits. The IRS suggests an adjustment if it disputes a taxpayer's self-assessment. [48] The tax dispute resolution system in the United States is distinguished by a multilayered, intricate structure that prioritizes independence, specialization, and a combination of formal and informal mechanisms. The system is intended to facilitate the timely resolution of disputes while guaranteeing the decision-making process's impartiality and expertise.[49]

The IRS examination (or audit) procedure is the primary mechanism by which tax disputes in the United States are typically initiated. A taxpayer can request a meeting or telephone conference with the IRS examiner and/or supervisor if they

[47] Iswantoro Iswantoro, Saparwadi Saparwadi, and Devi Triasari, 'The Role of District Governments in Handling Damage to National Roads in the Regional Autonomy', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 20–34 https://doi.org/10.53955/jsderi.v2i1.22

[48] Ruwaidah Afiyati and others, 'Tax Dispute Settlement Mediation Arrangements in the Future Tax Court', *International Journal of Research in Business and Social Science (2147- 4478)*, 11.5 (2022), 503–11 https://doi.org/10.20525/ijrbs.v11i5.1867

[49] Defi Defi, 'International Tax Dispute Resolution through Mutual Agreement Procedure in Indonesia: Past, Present, and Future', *Educoretax*, 4.9 (2024), 1087–1106 https://doi.org/10.54957/educoretax.v4i9.1055

disagree with any or all of the IRS's findings during the examination process. A fragmented and decentralized system that encompasses both public and private mechanisms is the hallmark of the tax dispute resolution system in the United States. The nature of the dispute, the parties involved, and the specific legal framework in force are all factors that influence this system.[50]

The United States employs a combination of litigation, arbitration, and mediation to resolve tax disputes, with a growing trend toward privatized dispute resolution methods. This method is designed to offer efficiency and adaptability but poses difficulties regarding accessibility and consistency. Several administrative requirements must be met before the IRS can assess additional tax or begin collecting it. The IRS must issue a Notice of Deficiency and wait 90 days for the taxpayer to file a petition with the US Tax Court or, if the taxpayer elects to do so, until the litigation is ultimately resolved to assess tax. The IRS will initially issue a Notice of Proposed Adjustment (NOPA) if the IRS disputes a taxpayer's reported tax liability. The taxpayer is generally granted 30 days to respond to the NOPA, although it is not mandatory. The taxpayer may sign and return the NOPA if they concur with the adjustment. Subsequently, they may pay the tax due upon assessing their tax liability. The IRS typically provides taxpayers with a 30-day letter and Revenue Agent Report to request a meeting with the IRS Independent Appeals Office (Appeals) to protest the adjustment if the taxpayer disagrees with the NOPA. A Notice of Deficiency will be issued to the taxpayer if they opt not to appeal.[51]

Appeals may either rescind the adjustment, reduce the proposed tax liability by the settlement, or maintain the adjustment in its entirety if the taxpayer appeals. The taxpayer is obligated to pay the tax due upon obtaining the assessment of the tax liability if the taxpayer concurs with the Appeals resolution. A Notice of Deficiency will be issued to the taxpayer if the Appeals resolution is unacceptable. The taxpayer has 90 days to either concur with the IRS's assessment of the deficiency or request a redetermination from the Tax Court following the issuance of the Notice of Deficiency. The IRS is prohibited from assessing additional tax for 90 days unless the taxpayer consents to the assessment. The taxpayer may still petition for a refund in court if the taxpayer agrees to the evaluation and pays the tax. Additionally, the IRS is prohibited from imposing additional taxes until the

[50] Ariel C. Avgar and others, 'A Fragmented and Heavily Privatized Dispute Resolution System: The United States', *Industrial Relations Journal*, 54.4–5 (2023), 304–20 https://doi.org/10.1111/irj.12409
[51] E.B. Luparev and A.V. Shvets, 'US Tax Dispute Resolution System: What Can Be Borrowed for Russia?', *Law Gazette of the Kuban State University*, 3, 2022, 44–49 https://doi.org/10.31429/20785836-14-3-44-49

litigation has been finalized, including after an appeal to a higher court, if the taxpayer exercises their right to petition the Tax Court.[52]

Tax fraud may be resolved through civil or criminal proceedings. An IRS examiner will ascertain whether there is an element of tax fraud and, if so, whether the taxpayer may have committed criminal tax evasion during an audit. The examiner will consult with a special agent in the IRS Division of Criminal Investigation if they suspect a criminal element. The agent will evaluate the case and, if necessary, refer it to the Department of Justice for prosecution. The IRS will postpone the civil audit until the criminal case is resolved if the government elects to prosecute. The IRS will determine whether to impose a civil fraud penalty of 75% at that time, irrespective of whether the government has charged a criminal case. The IRS will prove the penalty if the taxpayer contests it in court.[53]

Taxpayers can challenge their tax liability through the IRS Independent Office of Appeals (Appeals), the courts, or both to resolve tax disputes. While the IRS Appeals division is a component of the IRS, it is distinct from the IRS examination and collection divisions. The Appeals process is less formal and less expensive than the courts, which is why taxpayers may prefer to seek relief through Appeals before appealing to the courts. Taxpayers need to be aware that they do not relinquish their right to appeal to a court by submitting an appeal (or not filing one).[54]

Upon completing an audit, taxpayers are entitled to appeal the deficiencies identified through administrative or judicial processes (or both). Before pursuing legal remedies, taxpayers are not required to seek an administrative resolution with the IRS Independent Appeals Office (Appeals). Nevertheless, the potential for a more rapid and cost-effective resolution in appeals is a compelling alternative. Taxpayers may elect to settle the disputed liability and pursue an appeal due to the ongoing accrual of interest and penalties during the appeal process (again, both administratively and judicially). If they fail to repay the liability, the taxpayer cannot appeal the disputed liability administratively or to the US Tax Court. If the taxpayer prepays the disputed liability, they can appeal the determination to the US Court of Federal Claims or any US District Court with appellate jurisdiction. If the taxpayer is dissatisfied with the court's decision, they have the additional right to appeal to any US Court of Appeals with jurisdiction. Lastly, the Court of

[52] 'Domestic Dispute Resolution Mechanisms', in *United Nations Handbook on the Avoidance and Resolution of Tax Disputes* (United Nations, 2023), pp. 71–107 https://doi.org/10.18356/9789210001151c005

[53] Kimberly A. Clausing, 'The US Perspective on International Tax Law', in *The Oxford Handbook of International Tax Law* (Oxford University Press, 2023), pp. 799–820 https://doi.org/10.1093/oxfordhb/9780192897688.013.47

[54] Hyun Cheol Jun, 'A Study on the Improvement of Tax Dispute Proceedings Focused on Comparison of the Legal Systems in the U.S', *Jeonbuk Law Review*, 72 (2023), 193–219 https://doi.org/10.56544/JBLR.2023.09.72.193

Appeals may petition the United States Supreme Court to consider the case if the taxpayer disagrees with the US court's decision. Nevertheless, petitions of this nature are infrequently granted by the United States Supreme Court.[55]

Alternative dispute resolution is unavailable during the examination phase. If disagreements arise following the examination and the case is transmitted to the IRS Independent Appeals Office (Appeals), numerous alternatives for mediation are not part of the standard Appeals process. Fast Track Mediation and Fast Track Settlement (FTS) allow small and large business taxpayers to resolve factual and legal disputes during the IRS examination. The IRS Appeals Department serves as a mediator. The standard Appeals option remains accessible if the case is not resolved. The Fast Track Appeals process is also designed to offer expedited access to an Appeals officer who serves as a mediator without precluding the regular Appeals option if a settlement is not reached. The taxpayer can request post-appeal mediation if a settlement is not reached during the regular appeals process. In this process, mediators selected by the taxpayer and Appeals attempt to facilitate a settlement. However, this option is unavailable if the taxpayer has used FTS before the Appeals process. Although binding arbitration is not an option in an IRS examination or appeals, it is available in litigation and non-binding mediation.[56]

Effective ADR may advantageously affect tax compliance and tax administration. Furthermore, ADR has been broadly embraced by enterprises, federal agencies, and tax authorities in specific foreign countries. Similarly, the Internal Revenue Service (IRS) has acknowledged that ADR can benefit its operations. Additionally, the IRS has expressed the belief that specific components of ADR can be effectively employed to promote the resolution of disputes at an early stage and shorten the duration from filing a return to the final resolution of a dispute.[57] Nevertheless, the IRS fails to capitalize on this potentially advantageous instrument and implements ADR in an unappealing manner to taxpayers. For instance, taxpayers and their representatives may question the impartiality, cost-effectiveness, and accessibility of the ADR procedure. Due to these factors, taxpayers may be inclined to embrace ADR opportunities within the IRS. A more efficient and cooperative approach that could benefit Indonesia to Indonesia is the U.S. model, which emphasizes alternative dispute resolution (ADR) methods such as mediation and arbitration. Indonesia could enhance its tax dispute resolution process, reduce the accumulation of cases, and cultivate a more collaborative relationship between taxpayers and tax authorities by implementing a comparable approach. This

[55] Avgar and others.
[56] Adinda Destaloka Putri Permatasari, 'Comparison Of Arbitration Dispute Resolution In Business Between Indonesia And United States Of America', *Journal of Private and Commercial Law*, 6.2 (2022), 183–200 https://doi.org/10.15294/jpcl.v6i2.30289
[57] Dinda Anna Zatika, 'The Principle of Justice in the Settlement of Tax Disputes Based in Tax Law in Indonesia', *Formosa Journal of Multidisciplinary Research*, 2.8 (2023), 1403–16 https://doi.org/10.55927/fjmr.v2i8.5738

transition is essential for Indonesia to ensure that it is by international best practices and that the tax system is fair and efficient.[58]

Most tax disputes in the United States are still resolved through formal processes in the Tax Court or the IRS Office of Appeals, despite the growing popularity of ADR. ADR is implemented in specific circumstances, particularly when both parties desire a resolution that is expedited and less costly. The US Tax Court has several substantial advantages over the Indonesian Tax Court. One of the primary benefits is the significantly increased level of institutional independence. The US Tax Court is an autonomous judicial institution directly appointed by the President with the Senate's sanction, without the involvement of tax authorities.[59] This ensures objectivity and neutrality in dispute resolution. Conversely, the Indonesian Tax Court continues to be administered financially and organizationally by the Ministry of Finance, which may result in a conflict of interest. In addition, the United States system allows taxpayers to submit a dispute with the Tax Court before paying the disputed tax, unlike Indonesia, which typically necessitates payment in advance as a prerequisite for appeal.[60]

The US Tax Court has implemented a contemporary and transparent legal framework, encompassing electronic systems for filing and proceedings. In contrast, Indonesia continues to encounter constraints in this regard. Furthermore, the Ministry of Finance continues to administer, finance, and organize the US Tax Court, which may result in a conflict of interest. The Small Tax Case program, which is not yet available in the Indonesian system, is an innovation that the Tax Court offers to expedite the resolution of small-value tax disputes. These advantages demonstrate that the tax court system in the United States is more capable of preserving taxpayer rights, enhancing the accessibility of justice, and promoting efficiency in the tax dispute resolution process.[61]

In contrast to the US, which predominantly resolves disputes through tax courts, Australia has adopted a mixed legal system (common law + strong administrative system) with a very advanced ADR (Alternative Dispute Resolution) approach. The Australian Taxation Office (ATO) initiated alternative dispute resolution (ADR) in 2013 to resolve tax disputes. This process encompasses mediation, negotiation, case discussion, conciliation, and evaluation by a neutral party. Resolving tax disputes in Australia requires a multifaceted approach that encompasses both

[58] Defi.

[59] Jan Thomas Martini and others, 'Incentive Effects of Tax Transparency: Does Country-by-Country Reporting Call for Arbitration?', *Journal of Accounting and Public Policy*, 49 (2025), 107278 https://doi.org/10.1016/j.jaccpubpol.2024.107278

[60] Thomas Tørsløv, Ludvig Wier, and Gabriel Zucman, 'Externalities in International Tax Enforcement: Theory and Evidence', *American Economic Journal: Economic Policy*, 15.2 (2023), 497–525 https://doi.org/10.1257/pol.20200200

[61] Xixi Zhang, 'Tax Arbitration and Foreign Direct Investments: A Comparison between Developed and Developing Countries', *SSRN Electronic Journal*, 2023 https://doi.org/10.2139/ssrn.4589031

internal and external mechanisms. The Australian Taxation Office (ATO) offers an internal review process; however, external avenues exist for more intricate or unresolved matters, including the Administrative Appeals Tribunal (AAT) and the courts.[62]

The Australian Taxation Office (ATO) has implemented a strategy and significant modifications to Australia's tax dispute resolution culture. This was implemented in response to the OECD's recommendations to enhance relationships with taxpayers. The ATO subsequently issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes, by the recommendations. The regulation specifies the principles and guidelines for the implementation of ADR. The regulation has simplified the process of resolving tax disputes for taxpayers, enabling them to do so in a cost-effective and timely manner.[63]

The ATO's primary objective in dispute resolution is to regularly plan for dispute resolution and resolve disputes through dispute policies. The Australian Taxation Office is dedicated to preventing and resolving conflicts in a timely, cost-effective, and straightforward manner while ensuring that the process is conducted politely and equitably. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online, which Tania Sourdin and Alan L. Shanks lead, assessed ADR at the Australian Taxation Office. The evaluation results indicate that ADR can reduce costs and save time. HMRC's evaluation results, which were obtained through investigations and numerous observations, have demonstrated that dispute resolution through mediation is a practical approach to resolving tax dispute deadlocks in the United States.[64]

Taxpayers can escalate disputes not resolved internally to the AAT or the courts. The AAT is frequently perceived as a more accessible alternative for taxpayers and offers a less formal setting than the courts. Taxpayers may be discouraged from pursuing court litigation unless necessary, as it can be costly and time-consuming despite providing a definitive resolution. Mediation has been integrated into the procedures of the AAT and the Federal Court of Australia, leveraging international best practices to enhance the efficacy of tax dispute resolution. Research has demonstrated that ADR can improve the perceptions of fairness and fair procedures, which is essential for all parties involved in adopting outcomes.[65]

The approach to resolving tax disputes differs substantially between the Administrative Appeals Tribunal (AAT) and court litigation. In contrast to the

[62] Hidayah.
[63] Saka Muhammed Olokooba, 'Resolving Tax Disputes Through the Alternative Dispute Resolution (ADR) Mechanisms', in *Nigerian Taxation* (Singapore: Springer Singapore, 2019), pp. 141–46 https://doi.org/10.1007/978-981-13-2607-3_12
[64] M. Kobetsky, 'The Status of the OECD Transfer Pricing Guidelines in the Post-BEPS Dynamic', *International Tax Studies*, 3.2 (2020) https://doi.org/10.59403/2rpcabz
[65] Afiyati and others.

adversarial nature of court litigation, the AAT offers a non-judicial administrative mechanism for reviewing decisions, emphasizing substantive review. This distinction is crucial for comprehending the procedural, accessibility, and efficiency disparities between the two systems. The AAT prioritizes informality and adaptability, frequently permitting a more inquisitorial approach in which the court actively investigates the facts of the case. This starkly contrasts the adversarial nature of court proceedings, in which the parties present their case to a judge who serves as an impartial arbiter.[66]

Additionally, mediation has been demonstrated to decrease the time and expenses necessary to resolve tax disputes, particularly for small and medium-sized individual taxpayers. Mediation can reduce the dispute resolution process from the standard 8-23 months to 61 days, a two-month reduction. In large and complex cases, mediation can also decrease the time and costs of resolving tax disputes. Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000.[67]

In contrast to the Indonesian system, tax dispute resolution in Australia offers numerous substantial benefits. Australia provides a diverse array of dispute resolution pathways that are more flexible and taxpayer-friendly, including administrative and alternative mechanisms, which do not always require a formal litigation process to conclude. An independent and non-judicial institution, the Administrative Appeals Tribunal (AAT), is one of the advantages. It enables the resolution of tax disputes more efficiently, straightforwardly, and cost-effectively than formal tribunals. Furthermore, the Australian Taxation Office (ATO) actively promotes the use of Alternative Dispute Resolution (ADR) methods, including mediation and negotiation, before the formal stage of dispute resolution. This approach expedites the resolution process without compromising the relationship between the tax authorities and taxpayers.[68] Additionally, the Inspector-General of Taxation (Tax Ombudsman) in Australia is an independent supervisor of tax administration services, enabling taxpayers to file complaints regarding maladministration or injustice.[69] Conversely, Indonesia's tax dispute resolution system relies on the objection path, appeal to the Tax Court, and cassation to the

[66] Illia YURIICHUK, 'Administrative Appeal as an Out-Of-Court Procedure for the Protection of the Rights of Individuals and Legal Entities', *European Journal of Law and Public Administration*, 6.1 (2019), 98–109 https://doi.org/10.18662/eljpa/67

[67] Sandra Aulia, 'Comparative Studies of Tax Administration on Transfer Pricing', *Journal of Governance and Administrative Reform*, 5.1 (2024), 39–51 https://doi.org/10.20473/jgar.v5i1.57398

[68] . and Gayo.

[69] Asherry Magalla and Joseph Augustine, 'The Law of Alternative Dispute Resolution in Tax Disputes in Tanzania A Lesson from Australia', *SSRN Electronic Journal*, 2021 https://doi.org/10.2139/ssrn.4123370

Supreme Court. This approach is characterized by a protracted process, increased costs, and restrictions on settlement mechanisms that are not part of the litigation path. Furthermore, the accountability of tax dispute services is suboptimal in Indonesia due to the absence of an independent supervisory authority. Consequently, the Australian system is more progressive and focuses on substantive justice, legal certainty, and administrative efficiency in resolving tax disputes.

Although Australia has established a tax dispute resolution system that emphasizes the preservation of taxpayer rights, flexibility, and speed through administrative and alternative channels, it is also crucial to examine the approach taken by other countries, such as Russia, in managing their tax dispute resolution programs. Russia presents an alternative approach, demonstrating a commitment to modernization to enhance transparency and efficiency while exhibiting robust administrative characteristics.[70]

The administrative appeal procedure is the initial step in resolving tax disputes in Russia. Before engaging in court litigation, taxpayers dissatisfied with the tax authorities' decision must initially submit an appeal to the Russian Federal Tax Service (FTS). This pre-trial procedure is mandatory and is designed to alleviate court congestion by resolving disputes within the tax administration. An administrative appeal entails the submission of a formal complaint that includes the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission evaluated the case and issued a decision within one month, a timeframe that may be extended in the event of complex cases. The taxpayer has the option to pursue legal action if they are dissatisfied. Although administrative appeals offer a more expedited resolution, critics contend that tax authorities are inclined to prioritize their assessments, which diminishes the impartiality of the process. However, the administrative stage continues to be a critical component of tax dispute resolution, as it enables the resolution of numerous cases without the involvement of a judge.[71]

Alternative dispute resolution (ADR) mechanisms are becoming more widely acknowledged even though Russia has historically relied on administrative and judicial processes. Dispute resolution can be expedited, and costs can be reduced through alternative dispute resolution, encompassing mediation, conciliation, and arbitration. In Russia, mediation in tax disputes is still in its infancy and is primarily employed in corporate tax cases. The Government is investigating

[70] Evgeniya Vasilyeva, 'On The Collection Of Tax Debt From Final Beneficiaries In Russia', 2019 https://doi.org/10.32008/NORDSCI2019/B2/V2/26

[71] л.И. Гаделышина, 'Legal Positions Of The Constitutional Court Of The Russian Federa Tion On Tax Disputes Based On The Materials Of The Resolutions Of 2020–2022', *Vestnik of Russian New University. Series 'Man and Society'*, 3, 2022, 40–52 https://doi.org/10.18137/RNU.V9276.22.03.P.040

methods to incorporate ADR into the general resolution of tax disputes, utilizing models from countries such as the United States and the United Kingdom.[72]

In Russia, the resolution of tax disputes is a multifaceted process encompassing pre-trial settlement, judicial proceedings, and emerging alternative dispute resolution mechanisms. A comprehensive framework for resolving disputes between taxpayers and tax authorities is necessary due to the complexity of the Russian tax system and the necessity of preventing corruption and ensuring compliance.[73] This framework is in a perpetual state of evolution to enhance tax administration's efficiency, transparency, and impartiality. Tax dispute resolution and pre-trial investigation are indispensable for preventing malfeasance and resolving taxpayer complaints. These procedures facilitate the resolution of legal errors and regulatory conflicts without the necessity of enduring protracted court proceedings. The resolution of tax disputes is significantly influenced by the judicial protection of taxpayers' rights. Taxpayers have the right to appeal the actions of tax authorities by the regulations of the Russian Tax Code, specifically, Article 138, which delineates the process for such appeals.[74]

Indonesia should contemplate adopting specific components of the Russian tax dispute resolution system, as it provides a pragmatic, modern, and efficient administrative approach, particularly when managing large volumes of tax disputes. Administrative resolution through the Federal Tax Service is a mandatory initial measure in Russia before taxpayers bring disputes to court. This process promotes a more expeditious resolution, alleviates the burden on the courts, and offers taxpayers and tax authorities the chance to resolve conflicts without escalating them. Furthermore, Russia has effectively incorporated information technology into its tax dispute resolution system by employing administrative digitization and e-justice. This has resulted in the acceleration of workflows, the enhancement of transparency, and the enhancement of accessibility to the legal process for taxpayers. The adoption of a technology-based administrative model, such as the one in Russia, will expedite the dispute resolution process, enhance public services, and fortify taxpayers' confidence in the national tax system in Indonesia, which continues to grapple with the backlog of cases in the Tax Court and the constraints of the electronic judicial system.[75]

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[72] A. Dontsova and E. Dolmatova, 'Judicial Protection of Taxpayer's Rights and Appeal Against Actions of Tax Authorities', *Bulletin of Science and Practice*, 6.1 (2020), 287–91 https://doi.org/10.33619/2414-2948/50/35

[73] М.В.И. КАЛОМБО and others, 'Challenges And Threats To The Tax Security Of The Russian Federation: Problems And Solutions', *Экономика и Предпринимательство*, 11(148), 2023, 321–24 https://doi.org/10.34925/EIP.2022.148.11.061

[74] Dontsova and Dolmatova.

[75] Razela N. Denikaeva, Evgeniy A. Pervyshov, and Alina M. Dinaeva, 'To The Question Of Pre-Judicial Settlement Of Tax Disputes', *EKONOMIKA I UPRAVLENIE: PROBLEMY, RESHENIYA*, 10/1.130 (2022), 116–21 https://doi.org/10.36871/ek.up.p.r.2022.10.01.016

Alternative Dispute Resolution (ADR) for tax disputes has also begun to be implemented in Russia, albeit less comprehensively and popularly than in countries such as the United States or Australia. The tax justice system in Russia continues to rely largely on administrative processes that the Federal Tax Service oversees. However, to alleviate the burden on the courts and offer a more efficient and expedited alternative to dispute resolution, a variety of alternative dispute resolution (ADR) methods have been implemented. Russia has initiated the development of mediation and informal negotiations to administratively resolve tax disputes despite the absence of a dedicated ADR institution for tax disputes. These procedures enable taxpayers and tax authorities to negotiate agreements without protracted legal proceedings.[76]

In Russia, the Alternative Dispute Resolution (ADR) field is expanding to offer a more efficient and less adversarial method of resolving conflicts between tax authorities and taxpayers. ADR mechanisms, such as mediation and arbitration, are currently being investigated as alternatives to conventional litigation, which is frequently costly and protracted. Although challenges persist in their implementation and acceptance, the Russian legal framework progressively integrates these methods to enhance tax dispute resolution.[77]

Tax mediation has been identified as a promising alternative dispute resolution (ADR) instrument despite its limited implementation. The legal framework for mediation in tax disputes is still being developed, and there are demands for more precise regulations to enhance its efficacy. The absence of a comprehensive legal framework that supports ADR in tax disputes in Russia is one of the primary obstacles to its implementation.[78] Furthermore, arbitration in Russia is regarded as a legal certainty and efficient process due to its seamless integration with international standards and practices. This is especially advantageous in international commercial disputes, where parties search for a dependable and predictable resolution process. Arbitration is also regarded as a legal certainty in Indonesia; however, it is more costly and time-consuming than mediation, another widely used dispute-resolution method in the country.

The resolution of tax disputes in Russia is frequently more flexible and expedited than the protracted litigation process in Indonesia, even though the ADR process is not as prevalent as in Australia. This not only alleviates the burden on the courts but also ensures that taxpayers have more equitable access to justice,

[76] Olokooba.

[77] Sergey A. Poryvaev, 'Review of the Practice of Administrative Proceedings in Cases of Challenging Actions (Inaction) and Decisions of the Control and Supervisory Bodies on Bringing to Administrative Responsibility', *Rossijskoe Pravosudie*, 9, 2022, 79–90 https://doi.org/10.37399/issn2072-909X.2022.9.79-90

[78] Mykhaylo Smokovych, 'Certain Aspects Of Administrative Proceedings In The Field Of Resolving Tax Disputes', *Slovo of the National School of Judges of Ukraine*, 1-2(38-39), 2022, 120–28 https://doi.org/10.37566/2707-6849-2022-1-2(38-39)-11

particularly in the case of minor disputes. By implementing this strategy, Indonesia can enhance access to justice for taxpayers, mitigate tensions, and establish a more positive relationship between tax authorities and taxpayers. To guarantee that the dispute resolution process is conducted equitably and transparently, Russia has a Tax Ombudsman who serves as an independent monitor. Indonesia currently lacks a comparable institution to supervise the entire tax dispute resolution process. By adopting this model, the Indonesian tax system can be enhanced in terms of transparency, accountability, and public confidence in tax policy.

***Indonesian Tax Dispute Resolution in a Cooperative Paradigm***

In Indonesia, the regulation of tax dispute resolution has not demonstrated any cooperative paradigm approach through administrative, legal initiatives (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts). Based on the experience of resolving tax disputes in tax tribunals and enhancing relations following the disagreement, Indonesia can implement dispute resolution using ADR.[79] Legal discovery is necessary to resolve these legal issues because the law has been unable to address the growing number of tax disputes and the need for taxpayers to obtain dispute resolution promptly. Indonesia can employ legal fiction as an alternative method of legal discovery to ascertain changes in the law, given the widespread implementation of tax dispute resolution through the cooperative paradigm in numerous countries. The primary objective of dispute resolution research will be to resolve disputes through administrative and legal processes rather than litigation.[80]

After reviewing the General Guidelines and Tax Procedures Law, it is possible to utilize ADR as a form of mediation when submitting an objection. A Taxpayer may file a letter of objection to the Director General of Taxes if they are dissatisfied with the tax determination imposed on them or with a reduction/collection by a third party. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer.[81] The procedure for filing an objection is governed by the following regulations: Article 25, paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of the Minister of Finance of the Republic of Indonesia Number 9/PMK.03/2013

[79] Gabriel Aliu, 'Modern International Tax Dispute Resolution – An African Perspective on the Mutual Agreement Procedure, Arbitration, and the Future', *Intertax*, 52.Issue 6/7 (2024), 476–92 https://doi.org/10.54648/TAXI2024049

[80] Žunić Kovačević.

[81] Kamran Abdullah, 'Enhancing Tax Dispute Resolution: A Proposal for Amendments to the Income Tax Ordinance 2001 for Strengthening Alternative Dispute Resolution Mechanisms', *Indus Journal of Law and Social Sciences*, II.II (2023), 10–14 https://doi.org/10.70540/ijlss.2023(II-II).02

regarding Procedures for Filing Objections, and is amended by PMK RI Number 202/PMK.03/2015.

Implementing mediation as an alternative dispute resolution (ADR) in conjunction with administrative and legal initiatives can foster communication characterized by transparency and familiarity. A mutually beneficial solution will be achieved through mediation, which involves the involvement of a third party in negotiations to ensure that both parties are satisfied. The third party is trusted and independent, and they can provide decision-making considerations that will assist in the peaceful resolution of disputes. The mediator will be able to facilitate a transformative process and a rapid resolution through mandatory mediation. The parties will be able to participate in the early phases of ADR with mediation before the litigation process.[82]

Mediation is voluntary due to its association with taxpayer rights. A new system must be established to reconcile the government's and taxpayers' interests, specifically, the legislative constraints that must be surmounted. Opportunities for resolving tax disputes through mediation may arise due to a collaborative relationship between taxpayers and tax agencies. The settlement can be conducted respectfully if it is established.[83] ADR is anticipated to expedite the dispute resolution process, thereby decreasing the number of tax disputes in the tax court and minimizing taxpayer losses in terms of time and costs during the justice-seeking process. The KUP can be modified in the future to facilitate mediation arrangements.[84]

The author recommends that the Directorate General of Taxation (DGT) incorporate ADR into its plan as a cost-effective and expedient method of resolving tax disputes. The utilization of ADR processes as a less confrontational method of dispute resolution may lead to a more favorable perception of the Directorate General of Taxation (DGT), thereby increasing voluntary compliance and reducing the time required for dispute resolution.[85] Tax authorities, including the IRS, ATO, and FNS, as well as the literature, provide support for the utilization of interest-based ADR methods, including facilitation and mediation, as a method of dispute resolution.[86]

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[82] Marco Greggi and Anna Miotto, 'The OECD Dispute Resolution System in Tax Controversies', *Laws*, 13.4 (2024), 45 https://doi.org/10.3390/laws13040045

[83] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 https://doi.org/10.53955/jsderi.v1i3.15

[84] A. Addamiano, 'Cross-Border Dispute Resolution in Tax Matters: A Luxembourg Overview', *European Taxation*, 64.11 (2024) https://doi.org/10.59403/1yg8h57

[85] F Moosa, 'Review of the New Alternative Dispute Resolution Process for Tax Disputes', *Tydskrif Vir Die Suid-Afrikaanse Reg*, 2023.4 (2023), 660–80 https://doi.org/10.47348/TSAR/2023/i4a4

[86] Giovanni Consolo, *Tax Dispute Resolution in the European Union* (Edward Elgar Publishing, 2024) https://doi.org/10.4337/9781035343362

Therefore, the tax dispute resolution system has the potential to be incorporated into the Directorate General of Taxes (DGT) Future State initiative as a result of the Directorate General of Taxes (DGT) endeavors to facilitate the use of ADR as a fair and efficient dispute resolution method. In light of the applicable regulatory mechanisms, resolving tax disputes in Indonesia is a protracted process. The DGT can also demonstrate a continued commitment to dispute resolution by including its dispute resolution plan in the DGT Strategic Plan, as demonstrated by the IRS, ATO, and FNS. Furthermore, the IRS, ATO, and FNS have shown that the revenue authorities' highest echelons should support a dispute resolution culture. This entails a more significant role for senior revenue authority members, such as the DGT Commissioner and the Head of Appeals, in genuinely advocating for a culture of dispute resolution and ADR in speeches, presentations, and other interactions with professional associations and other key stakeholders. ADR provides the potential to resolve tax disputes in a less confrontational manner. Nevertheless, both parties must actively participate and resolve this issue. This implies that ADR is likely to be effective in the future.[87]

Structural reforms must be implemented to the Tax Court's position to enhance the impartiality and efficacy of tax dispute resolution in Indonesia. The dualism of management between the Ministry of Finance and the Supreme Court generates legal uncertainty and provides an opportunity for executive intervention.[88] Indonesia must thoroughly integrate the Tax Court under the Supreme Court as part of the state administrative court, by the practices of the United States and Australia. This will involve preparing special procedural law (lex specialis) for tax disputes. The judicial institution must also recruit justices independently to ensure neutrality, professionalism, and accountability.[89]

Furthermore, Indonesia must implement alternative dispute resolution (ADR) mechanisms, including mediation and negotiation, within its tax system. The implementation of ADR, which has been demonstrated to be effective in Australia, the United States, and Russia, can expedite dispute resolution, alleviate the burden on the Tax Court, and establish a more harmonious relationship between taxpayers and tax authorities.[90] The General Provisions and Tax Procedures Law (UU KUP) must be amended to regulate ADR regulations expressly. This can be achieved by implementing mediation procedures before submitting cases to court.

[87] Li.

[88] Setiawan and others.

[89] Hizkia Ivan Nugroho, Novianti Lestari, and Rasji Rasji, 'Legal Protection Efforts for Taxpayers in the Tax Dispute Resolution Mechanism', *QISTINA: Jurnal Multidisiplin Indonesia*, 2.2 (2023), 839–45 https://doi.org/10.57235/qistina.v2i2.811

[90] Jasna Voje, 'The Limits to the Participation of the Taxpayer in Tax Dispute Resolution Procedure Under the Dispute Resolution Directive', *Intertax*, 48.Issue 2 (2020), 157–76 https://doi.org/10.54648/TAXI2020015

To enhance transparency and efficacy, the dispute resolution system must also expedite the implementation of digitalization.[91]

Establishing a Tax Ombudsman institution independent of the Directorate General of Taxation and the Ministry of Finance is essential for improving accountability in tax dispute resolution supervision. Adopting the Australian model, which includes an Inspector-General of Taxation, establishing a Tax Ombudsman in Indonesia will enhance the preservation of taxpayers' rights, foster voluntary compliance, and enhance public confidence in the tax system. This comprehensive reform will fortify Indonesia's status as a nation of law that prioritizes justice, legal certainty, and efficacy in resolving tax disputes.

## 4. Conclusion

The independence of the tax court is jeopardized by the disharmony between the Tax Court Law, the Judicial Power Law, and the KUP Law, which is prevented by tax settlement in Indonesia. In Indonesia, resolving tax settlements involves the following stages: approval, binding, lawsuits, and judicial review to the Supreme Court. The Tax Court's independence is enhanced by structural reform, as outlined in Constitutional Court Decision Number 26/PUU-XXI/2023. However, a conflict of interest was previously established by the dual guidance system from the Supreme Court and the Ministry of Finance. Significant challenges remain in resolving current tensions, including the accumulation of a large number of cases, the duration of the process, the high costs, and the centralization in Jakarta, which impedes accessibility. Furthermore, implementing the Alternative Dispute Resolution (ADR) mechanism in other nations, including the United States, Australia, and Russia, has demonstrated its capacity to enhance taxpayer trust, impartiality, and efficiency. Consequently, urgent reform is required to strengthen Indonesia's tax collection settlement system. This can be achieved by completely integrating the Tax Court into an independent judicial system under the Supreme Court, establishing a clear tax procedural legal framework, and adopting an ADR mechanism. Implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation, is necessary to facilitate the resolution process and alleviate the burden on the Tax Court in Indonesian tax settlement. Besides that, the Directorate General of Taxes (DGT) is advised to incorporate ADR into its strategic plan and redefine the Tax Court's role to ensure greater independence and integration with the Supreme Court. The accelerated implementation of ADR and digitalization will enhance the relationship between tax authorities and taxpayers and strengthen a fair and efficient tax system by increasing transparency and accountability.

[91] Ehab Farah, 'Mandatory Arbitration of International Tax Disputes: A Solution in Search of a Problem', *Florida Tax Review*, 9.8 (2022) https://doi.org/10.5744/ftr.2009.1008

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# Legal Discovery in Indonesia’s Tax Dispute Framework

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# Legal Discovery in Indonesia's Tax Dispute Framework

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ABSTRACT (10PT)

There exists a normative disharmony between the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures (KUP) Law, which adversely affects the independence and authority of the Tax Court in adjudicating tax disputes. This legal inconsistency generates juridical uncertainty regarding the Tax Court's position within the Indonesian judicial system and the mechanisms for oversight of its decisions. This research aims to evaluate the current tax dispute framework in Indonesia and explore potential reforms by comparing the systems in the United States, Russia, and Australia. The research utilizes a This research is a normative legal research using a legislative, conceptual and comparative approach. The study reveals that the independence of Indonesia's Tax Court is weakened by dual oversight from the Supreme Court and the Ministry of Finance. Despite reforms aimed at improving autonomy, challenges such as case backlogs, prolonged proceedings, high litigation costs, and limited regional access remain. These findings highlight the urgent need for systemic reform. Drawing on international examples from the United States, Australia, and Russia, the integration of Alternative Dispute Resolution (ADR) mechanisms could significantly improve efficiency, fairness, and public trust in the tax system. Aligning the Tax Court fully under the Supreme Court and adopting ADR would strengthen institutional integrity.

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## 1. Introduction

The accumulation of funds required to advance this archipelago is one of the numerous critical functions of the Indonesian tax system. Nevertheless, disputes between tax officials and taxpayers may arise. Disputes occur when there is a disagreement regarding the interpretation of tax regulations, the amount of tax that should be paid, or the execution of administrative duties.[1] Disputes of this nature are inevitable due to the complexity of tax law and the numerous factors that must

[1] A.A Gede Diotama, I Nyoman Putu Budiartha, and Ida Ayu Putu Widiati, 'Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung', *Jurnal Konstruksi Hukum*, 3.1 (2022), 153–59 https://doi.org/10.22225/jkh.3.1.4411.153-159

be considered. Tax dispute resolution is critical for establishing an equitable and effective tax system that elucidates the law for all parties.[2]

One of the Tax Court's critical functions is to offer legal certainty to taxpayers and parties involved in tax disputes. The Tax Court is the initial and/or final level of review and determination in tax disputes.[3] In the event that a Tax Court decision is unchallengeable at the General Court, State Administrative Court, or any other judicial body, with the exception of a decision stating "Not acceptable" regarding authority/competence, a judicial review may be sought from the Supreme Court.[4] Two institutions, the Supreme Court and the Ministry of Finance, are involved in the Tax Court's position in Indonesia. As stipulated in Law No. 14 of 2002 regarding the Tax Court, the Ministry of Finance is responsible for the organizational, administrative, and financial aspects, while the Supreme Court is responsible for the technical-judicial aspects. The Tax Court is distinguished from the legal system as a whole by several characteristics that are related to the tax dispute resolution procedure. This court is responsible for evaluating and resolving disputes between tax officers and taxpayers.[5]

Even though "Law No. 14 of 2002" has established a well-defined framework for tax dispute resolution, it remains ineffective due to numerous insurmountable obstacles. Indonesia's administrative tax dispute resolution system does not offer disputing parties the opportunity to pursue conventional legal remedies. Instead, it provides the Supreme Court with an unconventional legal remedy through judicial review. Consequently, taxpayers find it more challenging to obtain justice, particularly in cases where tax officials' decisions are perceived as unjust. Furthermore, it is crucial to adhere to tax regulations and consider the consequences of unfair choices, as both have the potential to discourage individuals and organizations from violating tax provisions. The Directorate General of Taxes should revoke the business licenses of individuals who violate the law to motivate more individuals to pay their taxes. The Directorate General of Taxes (DGT) frequently fails to resolve tax-related matters. This is primarily attributable to the fact that taxpayer documentation is insufficient or regulations are not enforced consistently. PT Tirta Investama, for instance, was subject to financial adjustments by the DGT due to non-compliance with the provisions

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[2] Yuli Trisnawati and Siti Nuryanah, 'Evaluating The Effectiveness Of Tax Objection Review In Indonesia's Tax Authority', *Jurnal Akuntansi Dan Keuangan Indonesia*, 19.1 (2022), 68–95 https://doi.org/10.21002/jaki.2022.04

[3] Tumian Lian Daya Purba and Dian Rahadian, 'Penyelesaian Sengketa Pajak Pada Kantor Pelayanan Pajak Kota Jayapura', *JURNAL EKOLOGI BIROKRASI*, 6.3 (2019), 11–22 https://doi.org/10.31957/jeb.v6i3.780

[4] Reni Ratna Anggreini, 'Relasi Mahkamah Agung Dan Pengadilan Pajak Dalam Kekuasaan Kehakiman', *Jurnal Lex Renaissance*, 6.3 (2021) https://doi.org/10.20885/JLR.vol6.iss3.art8

[5] I Wayan Sentana Gotama, Ida Ayu Putu Widiati, and I Putu Gede Seputra, 'Eksistensi Pengadilan Pajak Dalam Penyelesaian Sengketa Pajak', *Jurnal Analogi Hukum*, 2.3 (2020), 331–35 https://doi.org/10.22225/ah.2.3.2521.331-335

recorded during the audit and the absence of documentation indicating management services provided by Danone Asia Pte Ltd.[6]

The resolution of tax disputes must be more consistent with the judicial system as a whole, as per the provisions of "Law No. 48/2009 on Judicial Power." An independent judicial authority is a critical prerequisite for the establishment and resilience of a state founded on the rule of law. In the absence of an independent judicial power, the authorities will have the opportunity to abuse power and neglect human rights, particularly due to the influence of government (executive)power.[7] The 1945 Constitution (hereinafter referred to as the 1945 Constitution) Article 24 Paragraph (2) regulates judicial power as follows: "Judicial power is exercised by the Supreme Court and judicial bodies under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and by a Constitutional Court." Additionally, Law Number 48 of 2009 (hereinafter referred to as the Judicial Power Law) Article 25 specifies that the judicial bodies under the Supreme Court include judicial bodies in the general judicial environment, religious judicial environment, military judicial environment, and state administrative, judicial environment.[8]

The institutions authorized to exercise judicial power have been mentioned in a limited manner (limitation) about the provisions. In other terms, the Constitution explicitly specifies the judicial institutions that exist. The courts must be located in one of the judicial environments under the Supreme Court, such as the general judicial environment, religious courts, military courts, or state administrative courts, despite the existence of courts that the Constitution does not stipulate. On the other hand, the tax court's position is ambiguous by Law Number 14 of 2002 concerning the Tax Court (hereinafter referred to as the Tax Court Law). Article 2 of this law states that "the tax court is a judicial body that exercises judicial power for taxpayers or tax payers who seek justice for tax disputes." Consequently, the Judicial Power Law lacks synchronicity, as only four courts are listed in Article 25 above.[9]

The Tax Court is an administrative court (judicial control) that offers legal protection to individuals who experience disadvantage due to state administrative

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[6] Daniel Edgar Hirasma Saragi, 'Mengapa DJP Kalah Dalam Sengketa Pajak? Studi Kasus Pada Perusahaan Air Minum Dalam Kemasan', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 8.1 (2024), 27–51 https://doi.org/10.31092/jpi.v8i1.2720

[7] Vidyatika Dwi Listanti, 'Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024', *Jurnal Indonesia Sosial Sains*, 6.1 (2025), 291–99 https://doi.org/10.59141/jiss.v6i1.1549

[8] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court', *Global Conference on Business and Social Sciences Proceeding*, 13.1 (2022), 1–1 https://doi.org/10.35609/gcbssproceeding.2022.1(95)

[9] Basuki Kurniawan and Nita Ryan Purbosari, 'Penyelesaian Disharmoni Peraturan Perundang-Undangan Melalui Jalur Mediasi', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyyah Fakultas Syariah IAIN Mataram*, 14.1 (2022), 83–96 https://doi.org/10.20414/alihkam.v14i1.4734

decisions in the form of stipulations (*beschikking*) issued by officials or State Administration bodies when viewed from a hierarchical perspective. Essentially, the Tax Court is anticipated to be able to offer a sense of justice to the disadvantaged party, which is the community in this instance. However, numerous issues have arisen in the process, including the regulatory system governing the Tax Court and the institutions and guidance.[10]

The "two-roof" Tax Court has implications for the Tax Court's performance. It raises several issues related to the recruitment of judges, supervision, development of judges, and their supporting resources, as well as the embodiment of the principles of transparency and openness of public information. Therefore, the Tax Court should be reformed to become a "one-roof" and independent judicial institution. The Supreme Court is responsible for the technical development of the judiciary and the organization, administration, and finance. The Tax Court's "one roof" construction is a distinct design that is a special court under the State Administrative Court.[11]

The Ministry of Finance, the Supreme Court, and the Judicial Commission's overlapping supervisory responsibilities can result in the rejection of supervision by any agency that will supervise based on the authority of the supervisory agency. The independence of the tax court will be impacted by guidance on one side in the Supreme Court (as a judicial institution) and on the other side in the Ministry of Finance (as an executive institution). This causes a contradiction, as the Ministry of Finance, which carries out executive functions, also carries out judicial functions when a tax dispute arises. The two institutions should be distinct to function as separate entities that regulate or supervise one another. Conditions arise to oversee the institution itself in such situations.[12]

The Tax Court, an appellate court by universally applicable Legal Science, as stipulated in Article 27 of the Judicial Power Law, emphasized its existence and independence. As a special court, it is appropriate to have its procedural law, as each court has its procedural law that guides law enforcers and judges to exercise judicial power. Additionally, the Tax Court's independence is evident in the nature and type of decisions it renders and the recruitment of Tax Court Judges. [13] Institutional ambiguity is generated by the contradiction between the Tax Court

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[10] Dien Hanifa, Arrisman Arrisman, and Imam Haryanto, 'The Existence of Tax Courts in Indonesia From the Colonial Era, Independence, to Reformation', *Asian Journal of Social and Humanities*, 2.7 (2024), 1461–70 https://doi.org/10.59888/ajosh.v2i7.279

[11] Khoirul Hidayah, 'Indonesian Tax Dispute Resolution in Cooperative Paradigm Compared to United Kingdom and Australia', *IOP Conference Series: Earth and Environmental Science*, 175 (2018), 012203 https://doi.org/10.1088/1755-1315/175/1/012203

[12] Rustian Mushawirya, 'The Tax Dispute Settlement According To Justice And Court System In Indonesia', *Nurani Hukum*, 2.2 (2020), 62 https://doi.org/10.51825/nhk.v2i2.6549

[13] Burhanudin Yusuf, Feriadi, and Anita Indriawati, 'Tax Disputes in the Digital Era: Challenges and Opportunities Toward Legal Certainty', *Jurnal Dedikasi Hukum*, 4.2 (2024), 170–86 https://doi.org/10.22219/jdh.v4i2.35351

Law (Law No. 14/2002) and the Judicial Power Law (Law No. 48/2009), which designates the Tax Court as a component of the PTUN.[14]

Vertical and horizontal disharmony in the tax law system are the consequences of the inconsistency between the Tax Court Law, the Law on General Provisions and Tax Procedures (KUP), the Judicial Power Law, and other technical regulations (PMK, Regulation of the Director General of Taxes"). The absence of a distinct, rigorous, and systematic procedural law (*lex specialis*) for the Tax Court results in legal uncertainty, inconsistent application of legal principles, and procedural irregularities for taxpayers and the Directorate General of Taxes. This undermines the equity and legal certainty of dispute resolution. The suboptimality of the ideal dispute resolution mechanism in a country based on the rule of law is also reflected in this condition, raising concerns about guaranteeing objectivity and justice for taxpayers. Consequently, it is imperative to conduct a more comprehensive examination of a variety of alternative dispute resolutions that not only address the requirement for procedural efficiency but also ensure independence, accountability, and substantive justice in practice.[15]

Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution. Therefore, to mitigate the escalation of conflicts and enhance their relationship with taxpayers, international tax authorities are inclined to implement various initiatives, including alternative dispute resolution (ADR) procedures, to resolve tax disputes without litigation.[16] The primary objective of the ADR process is to facilitate the earlier resolution of tax disputes or the entire prevention of tax disputes. This approach offers both parties increased certainty and the capacity to allocate limited resources.[17] Additionally, the transition to alternative dispute resolution (ADR) processes in tax dispute resolution is generally consistent with a shift in the culture of tax authorities from "command and control" to one intended to foster trust, support, and respect within the community. This shift in culture, in turn, promotes voluntary compliance.[18]

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[14] Farel Rifandanu, 'Implikasi Putusan Mahkamah Konstitusi Nomor 26/PUU-XXI/2023 Terhadap Pembinaan Pengadilan Pajak', *Amnesti: Jurnal Hukum*, 6.1 (2024), 145–61 https://doi.org/10.37729/amnesti.v6i1.3270

[15] Agus P. Priyono Henry DP Sinaga, 'Is Administrative Justice A Problem-Solving of Tax Dispute?', *Jurnal Tax Law and Policy*, 1.1 (2022), 54–66 https://doi.org/10.56282/jtlp.v1i1.63

[16] Ardiansyah Ardiansyah, 'Comparative Study of The Implementation Of Alternative Disputes Resolution (Adr) In Tax And Customs Disputes In Indonesia', *Journal Evidence Of Law*, 1.1 (2022), 55–69 Https://Doi.Org/10.59066/Jel.V1i1.15

[17] Muhammad Ghifari, 'Alternatif Dispute Resolution to Reduce Costs, Energy, And Time Issued by DJP Taxpayer or Dispute Settlement in Taxation', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14821

[18] I Nyoman Wara, Dumaria Simanjuntak, and Reny Yemimalina Sinaga, 'Conflict of Interests in Declaring State/Regional Loss of Tax Income in Indonesia', *Jurnal Tata Kelola Dan Akuntabilitas Keuangan Negara*, 9.2 (2023), 349–66 https://doi.org/10.28986/jtaken.v9i2.1340

Additionally, the tax authorities' implementation of the ADR process is consistent with the dispute systems design (DSD) concept, which is a deliberate endeavor to enhance how organizations manage conflicts by organizing dispute resolution processes clearly and strategically. Consequently, the utilization of ADR to improve the efficiency and effectiveness of tax administration and to facilitate the resolution of disputes with tax authorities or to alleviate concerns is the fundamental objective of DSD, which is to reduce the costs of dispute resolution and to produce more durable and satisfactory resolutions.[19]

The efficiency and fairness of tax dispute resolution can be substantially enhanced by implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation. Mediation has been effectively implemented in Australia, Russia, and the United States. Its implementation in Indonesia can potentially reduce the backlog of cases and provide a more cost-effective solution for taxpayers. The U.S. Tax Court, a specialized tax court not affiliated with the IRS (tax authority), already exists in the United States. Consequently, taxpayers can register a lawsuit with the Tax Court before paying taxes, allowing them to access justice without the initial financial burden. An ADR system that is implemented efficiently and is beneficial to taxpayers can expedite settlement without placing an undue burden on the court. The Administrative Appellate Tribunal (AAT) is an independent an independent non-judicial administrative appeal forum in Australia with significant authority. The ATO (Australian Tax Office) also facilitates mediation and informal settlement as a first step, and the Tax Ombudsman (Inspector-General of Taxation) supervises tax dispute resolution services. The accountability and public trust are fortified by the participation of this independent supervisory authority (Ombudsman). The majority of tax disputes in Russia are initially resolved through administrative review at the tax authority (Federal Tax Service). Russia has demonstrated advancements in the efficacy and modernization of dispute resolution, particularly through the implementation of legal technology (e-justice), even though the system is not as autonomous as those of the United States or Australia.

Given the successful implementation of various alternative dispute-resolution methods in numerous countries, conducting a more comprehensive analysis of the techniques used in previous studies is crucial. The Tax Court Law is less appropriate in providing legal protection for tax dispute resolution than the generally applicable judicial system, as previous research by Rustian Mushawirya demonstrated that the tax dispute resolution mechanism is, in principle, not by the generally applicable judicial system. The Ministry of Finance's recruitment of Tax Court judges and the process of organizational, financial, and administrative development of the Tax Court can present an opportunity for tax officials to intervene in the tax dispute process. This directly opposes Article 11 paragraphs (1)

[19] Noviansyah and Sabela Gayo, 'The Use of Mediation as Alternative Tax Dispute Resolution', *International Journal of Research and Review*, 10.1 (2023), 133–43 https://doi.org/10.52403/ijrr.20230114

and (2) of Law Number 35 of 1999, which mandates and confirms that the Supreme Court is responsible for the judicial environment's organizational, financial, and administrative development.[20] Subsequently, Heriantonius Silalahi et al. conducted research demonstrating tax professionals' critical role in reducing risk, assuring compliance, and navigating intricate legal frameworks. Their cooperation is essential for the reduction of financial penalties, the expedition of dispute resolution, and the enhancement of taxpayer confidence. A more effective tax administration system can be achieved by enhancing the synergy between these professions, promoting fairness and legal certainty, and increasing taxpayer confidence in the Indonesian tax regime.[21] Furthermore, Khoirul Hidayah's investigation identified social issues associated with the growing number of unresolved tax collections at the Tax Court. In this investigation, mediation was implemented as an alternative dispute resolution method for tax settlements in Indonesia. Administrative and legal efforts are anticipated to facilitate the rapid and courteous resolution of disputes through mediation. Additionally, mediation is expected to enhance the relationship between taxpayers and the Directorate General of Taxes and increase the voluntary compliance of taxpayers following the conflict. He also stated that Indonesia has not regulated mediation in the resolution of tax settlements. Consequently, modifications must be made to the Law on General Provisions and Tax Procedures to establish mediation regulations.[22]

Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General Tax Provisions, and the effect they have on the independence of tax court institutions.[23] Even though prior research has identified several critical concerns regarding institutions, the role of professionals, and the potential for mediation to be implemented in resolving tax disputes in Indonesia, no study has comprehensively examined legal disharmony as the fundamental structural issue within the national tax dispute resolution system. This study addresses this void by critically examining the inconsistency between regulations, particularly the Tax Court Law, the Judicial Power Law, and General

[20] Mushawirya.
[21] Heriantonius Silalahi and others, 'The Influence of Tax Dispute Resolution Mechanisms: Legal Contributions of Tax Consultants and Tax Attorneys in Indonesia', *Ilomata International Journal of Tax and Accounting*, 6.1 (2025), 25–52 https://doi.org/10.61194/ijtc.v6i1.1597
[22] Hidayah.
[23] Heru Setiawan and others, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 263–98 https://doi.org/10.53955/jhcls.v4i2.263

Tax Provisions, and the effect they have on the independence of tax court institutions.

## 2. Research Method

This research is normative legal research, which employs legal, conceptual, comparative, and Methods of Systematic Literature Review. Systematic literature review is a methodology that entails examining and interpreting a collection of pertinent literature, including previously published journals, emphasizing the theory being discussed within a specific context.[24] Efforts to resolve tax settlements in Indonesia, as regulated by the Tax Administration Law and the Tax Court Law, are examined in this study using the regulatory-statutory approach. The cooperative paradigm recommended by the OECD is employed to investigate the concept of tax settlement in the conceptual approach. The tax settlement models employed by the United States, Australia, and Russia are summarized in the comparative approach.[25] Legal, conceptual, case, analytical, and philosophical methodologies are implemented. The document study method is the selected data collection strategy for this investigation.[26] The data utilized is secondary data derived from literature investigations, primary legal materials, including legal theories and laws. Books, articles, and research findings comprise secondary legal materials in addition to conducting additional research on primary legal materials from a theoretical perspective and examining their practical application.[27] Indonesia's tax disputes are resolved through various legal sources, including international practices, legal principles, and laws and regulations. The researcher initially details the administration and regulation of tax settlements in the United States, Australia, and Russia using the cooperative paradigm in the discussion. Then, the researcher employs qualitative legal methods to conduct identification and analysis. The researcher employs the legal fiction method to identify relevant regulations.[28]

[24] Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 https://doi.org/10.53955/jhcls.v4i3.396

[25] Aditia Syaprillah and Fuad Shehab Shyyab, 'Legislative Framework for Decentralized Administration in Addressing River Pollution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 55–77 https://doi.org/10.53955/jsderi.v3i1.39

[26] Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas, and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 https://doi.org/10.53955/jsderi.v2i3.48

[27] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 https://doi.org/10.22219/ljih.v30i1.20764

[28] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 https://doi.org/10.18502/kss.v8i21.14713

## 3. Results and Discussion

### *Tax Dispute Resolution System in Indonesia*

Tax disputes in Indonesia result from disagreements between tax authorities and taxpayers regarding tax obligations. The Tax Court is a significant player in resolving these disputes, which involve a combination of administrative and judicial processes. The Indonesian Tax Court's practice of resolving tax disputes is based on or still employs Law Number 14 of 2002, even though the Tax Court's position has been updated. The Tax Court is a Special Court within the State Administrative Court, as defined by Law Number 48 of 2009 concerning Judicial Power, Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning PTUN, and Law Number 28 of 2007 concerning General Provisions and Tax Procedures. The change in its position undoubtedly impacts the litigation procedures in the Tax Court (its Procedural Law). In reality, there has been no subsequent action, so the resolution of tax disputes continues to be governed by Law Number 14 of 2002.[29]

The legal remedy of Judicial Review to the Supreme Court is regulated in Chapter IV Article 34 to Article 42 of Law Number 14 of 2002, which also governs the resolution of tax disputes through the Tax Court. A decision is the subject of a lawsuit or appeal letter. The present Tax Court is a historical advance over the Tax Dispute Resolution Agency (BPSP), the previous Tax Court institution. The Tax Court lodged a legal remedy of Judicial Review with the Supreme Court to address the deficiencies and weaknesses of the BPSP, particularly the implementation of the judicial system with tiered examinations to the Supreme Court.[30] The Tax Court is responsible for examining and deciding on disputes over objection decisions in resolving tax disputes unless otherwise specified by applicable laws and regulations. The Tax Court conducts an examination and determination of disputes concerning the implementation of tax collection on Correction Decisions or other Decisions in a lawsuit, as outlined in Article 23, Paragraph 2 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures. This law has been amended numerous times, most recently by Law Number 16 of 2000, and is subject to all relevant tax laws and regulations.[31]

In Indonesia, the resolution of tax disputes is subject to various channels and institutions, including the administrative objection process, litigation filed with the Tax Court, and judicial review proceedings before the Supreme Court. The

[29] Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Indonesia Carbon Tax Policy: A Key Role in Sustainable Development Goals', 2024, p. 020040 https://doi.org/10.1063/5.0202042

[30] Mega Nurmala Sari and Riatu Mariatul Qibthiyyah, 'Examining the Factors That Affect the Loss of Tax Disputes in the Tax Court', *GATR Accounting and Finance Review*, 7.2 (2022), 97–112 https://doi.org/10.35609/afr.2022.7.2(3)

[31] Maria R. U. D. Tambunan and Gabriel Muara Thobias Silalahi, 'Article: Resolving Conflicts Between Production Sharing Contracts and Tax Treaties in Indonesia', *Intertax*, 52.Issue 2 (2024), 154–62 https://doi.org/10.54648/TAXI2024022

settlement of tax disputes acknowledges two mechanisms: dispute resolution through administrative efforts, specifically through the objection institution, and through the judicial institution, the Tax Court. The formal regulations in tax law clearly explain the provisions about the institutions responsible for resolving tax disputes.[32]

The principle of judicial independence governs the Tax Court, even though the Supreme Court and the Ministry of Finance historically supervise its organizational, administrative, and financial management. Nevertheless, the Tax Court is now entirely under the supervision of the Supreme Court due to Constitutional Court Decision Number 26/PUU-XXI/2023. This has resulted in an increase in the court's independence and impartiality in resolving tax disputes. The Tax Court's structure has been affected by a variety of reforms, including the transfer of organizational, administrative, and financial authority from the Ministry of Finance to the Supreme Court by Constitutional Court Decision Number 26/PUU-XXI/2023.[33]

The stages of tax dispute resolution in Indonesia typically adhere to a series of formal steps by the relevant laws and regulations, which are specifically outlined in the General Provisions and Tax Procedures Law (UU KUP) and the Tax Court Law.[34] Administrative/objection, appeal, lawsuit, and judicial review are among the stages of tax dispute resolution. Without the court's involvement, the objection stage is resolved within the internal scope of the Directorate General of Taxes (DGT). Tax administration, which encompasses tax dispute resolution, is the responsibility of the Directorate General of Taxes (DGT) within the Ministry of Finance. Before they are submitted to the Tax Court, DGT manages objections and appeals. [35] The DGT is also involved in implementing alternative dispute resolution mechanisms, such as mediation, to facilitate the peaceful resolution of tax disputes. The objective is to offer taxpayers the chance to express their dissatisfaction with tax decisions through administrative channels before proceeding to the legal (judicial) process.[36]

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[32] Nataša Žunić Kovačević, 'Effectiveness of Tax Dispute Resolution Mechanisms – The Impact of the European Legal Framework on National Jurisdiction', *Law, Identity and Values*, 4.1 (2024), 271–91 https://doi.org/10.55073/2024.1.271-291

[33] Listanti.

[34] Reza Octavia Kusumaningtias and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 https://doi.org/10.53955/jsderi.v1i2.7

[35] Al Fadilla Yoga Brata and Rakotoarisoa Maminiaina Heritiana Sedera, 'The Implementing a Carbon Tax as a Means of Increasing Investment Value in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 39–50 https://doi.org/10.53955/jsderi.v1i2.6

[36] Anis Muhamad, Ramlani Lina Sinaulan, and Khalimi Khalimi, 'Mediasi Sebagai Alternatif Penyelesaian Sengketa Pajak', *SENTRI: Jurnal Riset Ilmiah*, 2.11 (2023), 4667–76 https://doi.org/10.55681/sentri.v2i11.1778

The administrative stage/objection stage involves negotiations and mediation between tax authorities and taxpayers to establish a settlement agreement. If a settlement is not reached, taxpayers can appeal to the court or a special arbitration body designated to resolve the dispute. To enhance the efficacy of tax dispute resolution, it is crucial to establish a legal framework that is both transparent and unambiguous, as well as to establish an efficient and equitable process. The Tax Court is authorized to manage both litigation concerning tax collection and appeals against tax assessment decisions. The court's decision is legally binding and ensures legal certainty for tax authorities and taxpayers. Tax dispute resolution is a legal procedure designed to resolve disputes between tax authorities and taxpayers that arise concerning disagreements over tax obligations.[37]

The judicial process in the Tax Court is intended to be straightforward, efficient, and cost-effective. However, in practice, the process can be lengthy and intricate due to the complexity of tax disputes and the extensive number of cases.[38] However, One of the Tax Court's most significant challenges is the substantial number of unresolved cases. Due to the considerable increase in tax disputes, the Court has faced significant challenges in meeting the demand. This has led to delays in the resolution of cases, which can be discouraging for taxpayers and erode their trust in the tax system.[39] The tax court system in Indonesia is experiencing a significant backlog of cases, resulting in delays and increased costs for taxpayers seeking a resolution. The tax court's dual-guided system exacerbates the situation by impacting its independence and efficacy.[40]

In Indonesia, tax tribunals are subject to a dual guidance system, which involves the Supreme Court providing technical-judicial guidance and the Ministry of Finance providing organizational, financial, and administrative guidance. This dualism raises concerns regarding the independence of the tax tribunals, as it may result in conflicts of interest and bias in decision-making. Differing interpretations of tax laws and regulations and aggressive tax audit behavior frequently result in disputes. The tax court system lacks the specialized knowledge and consistent application of legal principles necessary to address this complexity.[41] Mostly, case resolution is the primary objective of the tax courts'

[37] Yi Li, 'Reform and Innovation of International Tax Dispute Resolution Mechanisms', *Beijing Law Review*, 15.03 (2024), 1143–57 https://doi.org/10.4236/blr.2024.153069

[38] Dyah Nur Sasanti and Hetty Tri Kusuma Indah, 'Problematika Penyelesaian Sengketa Di Pengadilan Pajak Dalam Rangka Perwujudan Peradilan Sederhana, Cepat, Dan Biaya Ringan', *Reformasi Hukum*, 26.1 (2022), 21–38 https://doi.org/10.46257/jrh.v26i1.256

[39] Hanifa, Arrisman, and Haryanto.

[40] Sari and Qibthiyyah, 'Probability and the Factors That Affect the Loss of Tax Disputes in the Indonesian Tax Court'.

[41] Maria R.U.D. Tambunan, 'Transfer Pricing Settlement in Indonesia: A Note for Tax Authority, Tax Court, and Taxpayers Based on the Tax Court Decisions', *BISNIS & BIROKRASI: Jurnal Ilmu Administrasi Dan Organisasi*, 29.2 (2022) https://doi.org/10.20476/jbb.v29i2.1306

dispute resolution process instead of problem-solving. This leads to recurring disputes and fails to address the underlying causes of disputes between tax authorities and taxpayers.[42]

Currently, taxpayers must pay a portion of the disputed tax upfront, as the dispute resolution procedure is costly and protracted. The process is multifaceted and may require several years to conclude, encompassing objections, appeals, and reviews. In the interim, the Tax Court is exclusively situated in Jakarta, the capital, which presents logistical difficulties for taxpayers from other regions. This centralization leads to an increase in taxpayers' time and travel expenses, rendering the process more cumbersome and less accessible.[43] In general, the Indonesian tax court system's systemic inefficiencies are predominantly the result of a combination of legal, administrative, and structural challenges.

The intricate interactions between the tax court's organizational framework and the broader judicial and executive systems exacerbate these inefficiencies.[44] Administrative deficiencies, legal inconsistencies, and the tax court's distinctive position within the Indonesian legal framework all contribute to its operational inefficiencies. The tax court operates under a unique legal framework that excludes it from the traditional judicial hierarchy, resulting in a lack of integration with the broader judicial system. This separation leads to a lack of independence and conflicts of interest, as the tax court is not entirely under the jurisdiction of the Supreme Court and is instead influenced by the Ministry of Finance. Consequently, there is a risk of weak oversight and control.[45]

The substantial number of tax disputes significantly impacts the efficacy of the tax courts in Indonesia. The dual guidance system exacerbates these challenges and the dispute resolution process's high case volume, complexity, and inefficiencies. Nevertheless, potential reforms, including decentralization and alternative dispute-resolution mechanisms, could enhance the system's efficacy and accessibility.[46] Comprehensive legal and structural reforms are required to guarantee the independence and integration of the tax courts into the broader judicial system, which will result in substantial improvements. Furthermore, it

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[42] Henry DP Sinaga.

[43] O. Fatianov, 'The Principles Of Tax Dispute Resolution', *Juris Europensis Scientia*, 5, 2023, 75–78 https://doi.org/10.32782/chern.v5.2023.15

[44] Dharma Setiawan Negara and others, 'Reorganization Of The Tax Court Within The State Administrative Court Post Constitutional Court Decision No 26/PUU-XXI/2023', *IBLAM LAW REVIEW*, 3.2 (2023), 234–41 https://doi.org/10.52249/ilr.v3i2.323

[45] Nafis Dwi Kartiko and Agustin Widjiastuti, 'Reducing Socio-Economic Disparities in Indonesia: Strengthening the Taxation Sector in Indonesia', *Activa Yuris: Jurnal Hukum*, 3.1 (2023) https://doi.org/10.25273/ay.v3i1.15912

[46] Dinda Agustin Wulandari, Abdul Kadir Jaelani, and Hilaire Tegnan, 'Income Tax Regulations for Child Content Creators of TikTok Platform: Inefficacy of Indonesian Legal Frameworks', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 169–91 https://doi.org/10.53955/jsderi.v2i2.35

will be essential to resolve these systemic inefficiencies by fostering public trust and compliance through effective administration and transparency.

### *Tax Dispute Resolution System in the United States, Australia, and Russia*

It is crucial to compare Indonesia's tax dispute resolution mechanisms with those in the United States, Australia, and Russia, as the three countries represent differing legal systems. This comparison offers a comprehensive perspective on the development of reforms. The U.S. Tax Court is an independent tax court that effectively assures access to justice without an initial financial burden for taxpayers, as the United States relies on its standard law system. Australia employs a hybrid approach that emphasizes alternative dispute resolution (ADR) through institutions like the Administrative Appeals Tribunal and the Tax Ombudsman. This approach enables the expeditious resolution of disputes outside of the formal court process. In the interim, Russia, a nation with a robust civil law tradition, has exhibited efficacy in modernizing the legal system through digital technology and implementing internal administrative resolution mechanisms.[47]

The tax system in the United States is typically self-assessed. A taxpayer's tax liability is self-assessed when they submit a tax return. The Internal Revenue Service (IRS) employs a variety of mechanisms to promote self-assessment, such as penalties for failure to file and subpoenas. Specific facts are typically reported in tax returns, which are used to determine the tax liability and the tax calculation. This self-assessment remains essentially unaltered. However, tax returns are annually chosen for auditing based on a computer assessment process, inconsistency with other related tax returns, or at random. Additionally, numerous substantial corporations undergo routine audits. The IRS suggests an adjustment if it disputes a taxpayer's self-assessment. [48] The tax dispute resolution system in the United States is distinguished by a multilayered, intricate structure that prioritizes independence, specialization, and a combination of formal and informal mechanisms. The system is intended to facilitate the timely resolution of disputes while guaranteeing the decision-making process's impartiality and expertise.[49]

The IRS examination (or audit) procedure is the primary mechanism by which tax disputes in the United States are typically initiated. A taxpayer can request a meeting or telephone conference with the IRS examiner and/or supervisor if they

[47] Iswantoro Iswantoro, Saparwadi Saparwadi, and Devi Triasari, 'The Role of District Governments in Handling Damage to National Roads in the Regional Autonomy', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 20–34 https://doi.org/10.53955/jsderi.v2i1.22

[48] Ruwaidah Afiyati and others, 'Tax Dispute Settlement Mediation Arrangements in the Future Tax Court', *International Journal of Research in Business and Social Science (2147- 4478)*, 11.5 (2022), 503–11 https://doi.org/10.20525/ijrbs.v11i5.1867

[49] Defi Defi, 'International Tax Dispute Resolution through Mutual Agreement Procedure in Indonesia: Past, Present, and Future', *Educoretax*, 4.9 (2024), 1087–1106 https://doi.org/10.54957/educoretax.v4i9.1055

disagree with any or all of the IRS's findings during the examination process. A fragmented and decentralized system that encompasses both public and private mechanisms is the hallmark of the tax dispute resolution system in the United States. The nature of the dispute, the parties involved, and the specific legal framework in force are all factors that influence this system.[50]

The United States employs a combination of litigation, arbitration, and mediation to resolve tax disputes, with a growing trend toward privatized dispute resolution methods. This method is designed to offer efficiency and adaptability but poses difficulties regarding accessibility and consistency. Several administrative requirements must be met before the IRS can assess additional tax or begin collecting it. The IRS must issue a Notice of Deficiency and wait 90 days for the taxpayer to file a petition with the US Tax Court or, if the taxpayer elects to do so, until the litigation is ultimately resolved to assess tax. The IRS will initially issue a Notice of Proposed Adjustment (NOPA) if the IRS disputes a taxpayer's reported tax liability. The taxpayer is generally granted 30 days to respond to the NOPA, although it is not mandatory. The taxpayer may sign and return the NOPA if they concur with the adjustment. Subsequently, they may pay the tax due upon assessing their tax liability. The IRS typically provides taxpayers with a 30-day letter and Revenue Agent Report to request a meeting with the IRS Independent Appeals Office (Appeals) to protest the adjustment if the taxpayer disagrees with the NOPA. A Notice of Deficiency will be issued to the taxpayer if they opt not to appeal.[51]

Appeals may either rescind the adjustment, reduce the proposed tax liability by the settlement, or maintain the adjustment in its entirety if the taxpayer appeals. The taxpayer is obligated to pay the tax due upon obtaining the assessment of the tax liability if the taxpayer concurs with the Appeals resolution. A Notice of Deficiency will be issued to the taxpayer if the Appeals resolution is unacceptable. The taxpayer has 90 days to either concur with the IRS's assessment of the deficiency or request a redetermination from the Tax Court following the issuance of the Notice of Deficiency. The IRS is prohibited from assessing additional tax for 90 days unless the taxpayer consents to the assessment. The taxpayer may still petition for a refund in court if the taxpayer agrees to the evaluation and pays the tax. Additionally, the IRS is prohibited from imposing additional taxes until the

[50] Ariel C. Avgar and others, 'A Fragmented and Heavily Privatized Dispute Resolution System: The United States', *Industrial Relations Journal*, 54.4–5 (2023), 304–20 https://doi.org/10.1111/irj.12409
[51] E.B. Luparev and A.V. Shvets, 'US Tax Dispute Resolution System: What Can Be Borrowed for Russia?', *Law Gazette of the Kuban State University*, 3, 2022, 44–49 https://doi.org/10.31429/20785836-14-3-44-49

litigation has been finalized, including after an appeal to a higher court, if the taxpayer exercises their right to petition the Tax Court.[52]

Tax fraud may be resolved through civil or criminal proceedings. An IRS examiner will ascertain whether there is an element of tax fraud and, if so, whether the taxpayer may have committed criminal tax evasion during an audit. The examiner will consult with a special agent in the IRS Division of Criminal Investigation if they suspect a criminal element. The agent will evaluate the case and, if necessary, refer it to the Department of Justice for prosecution. The IRS will postpone the civil audit until the criminal case is resolved if the government elects to prosecute. The IRS will determine whether to impose a civil fraud penalty of 75% at that time, irrespective of whether the government has charged a criminal case. The IRS will prove the penalty if the taxpayer contests it in court.[53]

Taxpayers can challenge their tax liability through the IRS Independent Office of Appeals (Appeals), the courts, or both to resolve tax disputes. While the IRS Appeals division is a component of the IRS, it is distinct from the IRS examination and collection divisions. The Appeals process is less formal and less expensive than the courts, which is why taxpayers may prefer to seek relief through Appeals before appealing to the courts. Taxpayers need to be aware that they do not relinquish their right to appeal to a court by submitting an appeal (or not filing one).[54]

Upon completing an audit, taxpayers are entitled to appeal the deficiencies identified through administrative or judicial processes (or both). Before pursuing legal remedies, taxpayers are not required to seek an administrative resolution with the IRS Independent Appeals Office (Appeals). Nevertheless, the potential for a more rapid and cost-effective resolution in appeals is a compelling alternative. Taxpayers may elect to settle the disputed liability and pursue an appeal due to the ongoing accrual of interest and penalties during the appeal process (again, both administratively and judicially). If they fail to repay the liability, the taxpayer cannot appeal the disputed liability administratively or to the US Tax Court. If the taxpayer prepays the disputed liability, they can appeal the determination to the US Court of Federal Claims or any US District Court with appellate jurisdiction. If the taxpayer is dissatisfied with the court's decision, they have the additional right to appeal to any US Court of Appeals with jurisdiction. Lastly, the Court of

[52] 'Domestic Dispute Resolution Mechanisms', in *United Nations Handbook on the Avoidance and Resolution of Tax Disputes* (United Nations, 2023), pp. 71–107 https://doi.org/10.18356/9789210001151c005

[53] Kimberly A. Clausing, 'The US Perspective on International Tax Law', in *The Oxford Handbook of International Tax Law* (Oxford University Press, 2023), pp. 799–820 https://doi.org/10.1093/oxfordhb/9780192897688.013.47

[54] Hyun Cheol Jun, 'A Study on the Improvement of Tax Dispute Proceedings Focused on Comparison of the Legal Systems in the U.S', *Jeonbuk Law Review*, 72 (2023), 193–219 https://doi.org/10.56544/JBLR.2023.09.72.193

Appeals may petition the United States Supreme Court to consider the case if the taxpayer disagrees with the US court's decision. Nevertheless, petitions of this nature are infrequently granted by the United States Supreme Court.[55]

Alternative dispute resolution is unavailable during the examination phase. If disagreements arise following the examination and the case is transmitted to the IRS Independent Appeals Office (Appeals), numerous alternatives for mediation are not part of the standard Appeals process. Fast Track Mediation and Fast Track Settlement (FTS) allow small and large business taxpayers to resolve factual and legal disputes during the IRS examination. The IRS Appeals Department serves as a mediator. The standard Appeals option remains accessible if the case is not resolved. The Fast Track Appeals process is also designed to offer expedited access to an Appeals officer who serves as a mediator without precluding the regular Appeals option if a settlement is not reached. The taxpayer can request post-appeal mediation if a settlement is not reached during the regular appeals process. In this process, mediators selected by the taxpayer and Appeals attempt to facilitate a settlement. However, this option is unavailable if the taxpayer has used FTS before the Appeals process. Although binding arbitration is not an option in an IRS examination or appeals, it is available in litigation and non-binding mediation.[56]

Effective ADR may advantageously affect tax compliance and tax administration. Furthermore, ADR has been broadly embraced by enterprises, federal agencies, and tax authorities in specific foreign countries. Similarly, the Internal Revenue Service (IRS) has acknowledged that ADR can benefit its operations. Additionally, the IRS has expressed the belief that specific components of ADR can be effectively employed to promote the resolution of disputes at an early stage and shorten the duration from filing a return to the final resolution of a dispute.[57] Nevertheless, the IRS fails to capitalize on this potentially advantageous instrument and implements ADR in an unappealing manner to taxpayers. For instance, taxpayers and their representatives may question the impartiality, cost-effectiveness, and accessibility of the ADR procedure. Due to these factors, taxpayers may be inclined to embrace ADR opportunities within the IRS. A more efficient and cooperative approach that could benefit Indonesia to Indonesia is the U.S. model, which emphasizes alternative dispute resolution (ADR) methods such as mediation and arbitration. Indonesia could enhance its tax dispute resolution process, reduce the accumulation of cases, and cultivate a more collaborative relationship between taxpayers and tax authorities by implementing a comparable approach. This

[55] Avgar and others.
[56] Adinda Destaloka Putri Permatasari, 'Comparison Of Arbitration Dispute Resolution In Business Between Indonesia And United States Of America', *Journal of Private and Commercial Law*, 6.2 (2022), 183–200 https://doi.org/10.15294/jpcl.v6i2.30289
[57] Dinda Anna Zatika, 'The Principle of Justice in the Settlement of Tax Disputes Based in Tax Law in Indonesia', *Formosa Journal of Multidisciplinary Research*, 2.8 (2023), 1403–16 https://doi.org/10.55927/fjmr.v2i8.5738

transition is essential for Indonesia to ensure that it is by international best practices and that the tax system is fair and efficient.[58]

Most tax disputes in the United States are still resolved through formal processes in the Tax Court or the IRS Office of Appeals, despite the growing popularity of ADR. ADR is implemented in specific circumstances, particularly when both parties desire a resolution that is expedited and less costly. The US Tax Court has several substantial advantages over the Indonesian Tax Court. One of the primary benefits is the significantly increased level of institutional independence. The US Tax Court is an autonomous judicial institution directly appointed by the President with the Senate's sanction, without the involvement of tax authorities.[59] This ensures objectivity and neutrality in dispute resolution. Conversely, the Indonesian Tax Court continues to be administered financially and organizationally by the Ministry of Finance, which may result in a conflict of interest. In addition, the United States system allows taxpayers to submit a dispute with the Tax Court before paying the disputed tax, unlike Indonesia, which typically necessitates payment in advance as a prerequisite for appeal.[60]

The US Tax Court has implemented a contemporary and transparent legal framework, encompassing electronic systems for filing and proceedings. In contrast, Indonesia continues to encounter constraints in this regard. Furthermore, the Ministry of Finance continues to administer, finance, and organize the US Tax Court, which may result in a conflict of interest. The Small Tax Case program, which is not yet available in the Indonesian system, is an innovation that the Tax Court offers to expedite the resolution of small-value tax disputes. These advantages demonstrate that the tax court system in the United States is more capable of preserving taxpayer rights, enhancing the accessibility of justice, and promoting efficiency in the tax dispute resolution process.[61]

In contrast to the US, which predominantly resolves disputes through tax courts, Australia has adopted a mixed legal system (common law + strong administrative system) with a very advanced ADR (Alternative Dispute Resolution) approach. The Australian Taxation Office (ATO) initiated alternative dispute resolution (ADR) in 2013 to resolve tax disputes. This process encompasses mediation, negotiation, case discussion, conciliation, and evaluation by a neutral party. Resolving tax disputes in Australia requires a multifaceted approach that encompasses both

[58] Defi.

[59] Jan Thomas Martini and others, 'Incentive Effects of Tax Transparency: Does Country-by-Country Reporting Call for Arbitration?', *Journal of Accounting and Public Policy*, 49 (2025), 107278 https://doi.org/10.1016/j.jaccpubpol.2024.107278

[60] Thomas Tørsløv, Ludvig Wier, and Gabriel Zucman, 'Externalities in International Tax Enforcement: Theory and Evidence', *American Economic Journal: Economic Policy*, 15.2 (2023), 497–525 https://doi.org/10.1257/pol.20200200

[61] Xixi Zhang, 'Tax Arbitration and Foreign Direct Investments: A Comparison between Developed and Developing Countries', *SSRN Electronic Journal*, 2023 https://doi.org/10.2139/ssrn.4589031

internal and external mechanisms. The Australian Taxation Office (ATO) offers an internal review process; however, external avenues exist for more intricate or unresolved matters, including the Administrative Appeals Tribunal (AAT) and the courts.[62]

The Australian Taxation Office (ATO) has implemented a strategy and significant modifications to Australia's tax dispute resolution culture. This was implemented in response to the OECD's recommendations to enhance relationships with taxpayers. The ATO subsequently issued Practice Statement Law Administration PS LA 2013/3, Alternative Dispute Resolution (ADR) in ATO disputes, by the recommendations. The regulation specifies the principles and guidelines for the implementation of ADR. The regulation has simplified the process of resolving tax disputes for taxpayers, enabling them to do so in a cost-effective and timely manner.[63]

The ATO's primary objective in dispute resolution is to regularly plan for dispute resolution and resolve disputes through dispute policies. The Australian Taxation Office is dedicated to preventing and resolving conflicts in a timely, cost-effective, and straightforward manner while ensuring that the process is conducted politely and equitably. In 2015, the Australian Centre for Justice Innovation: Civil Justice Research Online, which Tania Sourdin and Alan L. Shanks lead, assessed ADR at the Australian Taxation Office. The evaluation results indicate that ADR can reduce costs and save time. HMRC's evaluation results, which were obtained through investigations and numerous observations, have demonstrated that dispute resolution through mediation is a practical approach to resolving tax dispute deadlocks in the United States.[64]

Taxpayers can escalate disputes not resolved internally to the AAT or the courts. The AAT is frequently perceived as a more accessible alternative for taxpayers and offers a less formal setting than the courts. Taxpayers may be discouraged from pursuing court litigation unless necessary, as it can be costly and time-consuming despite providing a definitive resolution. Mediation has been integrated into the procedures of the AAT and the Federal Court of Australia, leveraging international best practices to enhance the efficacy of tax dispute resolution. Research has demonstrated that ADR can improve the perceptions of fairness and fair procedures, which is essential for all parties involved in adopting outcomes.[65]

The approach to resolving tax disputes differs substantially between the Administrative Appeals Tribunal (AAT) and court litigation. In contrast to the

[62] Hidayah.
[63] Saka Muhammed Olokooba, 'Resolving Tax Disputes Through the Alternative Dispute Resolution (ADR) Mechanisms', in *Nigerian Taxation* (Singapore: Springer Singapore, 2019), pp. 141–46 https://doi.org/10.1007/978-981-13-2607-3_12
[64] M. Kobetsky, 'The Status of the OECD Transfer Pricing Guidelines in the Post-BEPS Dynamic', *International Tax Studies*, 3.2 (2020) https://doi.org/10.59403/2rpcabz
[65] Afiyati and others.

adversarial nature of court litigation, the AAT offers a non-judicial administrative mechanism for reviewing decisions, emphasizing substantive review. This distinction is crucial for comprehending the procedural, accessibility, and efficiency disparities between the two systems. The AAT prioritizes informality and adaptability, frequently permitting a more inquisitorial approach in which the court actively investigates the facts of the case. This starkly contrasts the adversarial nature of court proceedings, in which the parties present their case to a judge who serves as an impartial arbiter.[66]

Additionally, mediation has been demonstrated to decrease the time and expenses necessary to resolve tax disputes, particularly for small and medium-sized individual taxpayers. Mediation can reduce the dispute resolution process from the standard 8-23 months to 61 days, a two-month reduction. In large and complex cases, mediation can also decrease the time and costs of resolving tax disputes. Dispute resolution with ADR went well and taxpayers responded positively. Dispute resolution was carried out impartially and ADR could provide legal certainty more quickly. ADR was able to grow taxpayers' trust. ADR could also reduce the costs that taxpayers had to spend to resolve disputes, which was around $70,000.[67]

In contrast to the Indonesian system, tax dispute resolution in Australia offers numerous substantial benefits. Australia provides a diverse array of dispute resolution pathways that are more flexible and taxpayer-friendly, including administrative and alternative mechanisms, which do not always require a formal litigation process to conclude. An independent and non-judicial institution, the Administrative Appeals Tribunal (AAT), is one of the advantages. It enables the resolution of tax disputes more efficiently, straightforwardly, and cost-effectively than formal tribunals. Furthermore, the Australian Taxation Office (ATO) actively promotes the use of Alternative Dispute Resolution (ADR) methods, including mediation and negotiation, before the formal stage of dispute resolution. This approach expedites the resolution process without compromising the relationship between the tax authorities and taxpayers.[68] Additionally, the Inspector-General of Taxation (Tax Ombudsman) in Australia is an independent supervisor of tax administration services, enabling taxpayers to file complaints regarding maladministration or injustice.[69] Conversely, Indonesia's tax dispute resolution system relies on the objection path, appeal to the Tax Court, and cassation to the

[66] Illia YURIICHUK, 'Administrative Appeal as an Out-Of-Court Procedure for the Protection of the Rights of Individuals and Legal Entities', *European Journal of Law and Public Administration*, 6.1 (2019), 98–109 https://doi.org/10.18662/eljpa/67

[67] Sandra Aulia, 'Comparative Studies of Tax Administration on Transfer Pricing', *Journal of Governance and Administrative Reform*, 5.1 (2024), 39–51 https://doi.org/10.20473/jgar.v5i1.57398

[68] . and Gayo.

[69] Asherry Magalla and Joseph Augustine, 'The Law of Alternative Dispute Resolution in Tax Disputes in Tanzania A Lesson from Australia', *SSRN Electronic Journal*, 2021 https://doi.org/10.2139/ssrn.4123370

Supreme Court. This approach is characterized by a protracted process, increased costs, and restrictions on settlement mechanisms that are not part of the litigation path. Furthermore, the accountability of tax dispute services is suboptimal in Indonesia due to the absence of an independent supervisory authority. Consequently, the Australian system is more progressive and focuses on substantive justice, legal certainty, and administrative efficiency in resolving tax disputes.

Although Australia has established a tax dispute resolution system that emphasizes the preservation of taxpayer rights, flexibility, and speed through administrative and alternative channels, it is also crucial to examine the approach taken by other countries, such as Russia, in managing their tax dispute resolution programs. Russia presents an alternative approach, demonstrating a commitment to modernization to enhance transparency and efficiency while exhibiting robust administrative characteristics.[70]

The administrative appeal procedure is the initial step in resolving tax disputes in Russia. Before engaging in court litigation, taxpayers dissatisfied with the tax authorities' decision must initially submit an appeal to the Russian Federal Tax Service (FTS). This pre-trial procedure is mandatory and is designed to alleviate court congestion by resolving disputes within the tax administration. An administrative appeal entails the submission of a formal complaint that includes the disputed tax assessment, supporting evidence, and legal arguments. The FTS Appeals Commission evaluated the case and issued a decision within one month, a timeframe that may be extended in the event of complex cases. The taxpayer has the option to pursue legal action if they are dissatisfied. Although administrative appeals offer a more expedited resolution, critics contend that tax authorities are inclined to prioritize their assessments, which diminishes the impartiality of the process. However, the administrative stage continues to be a critical component of tax dispute resolution, as it enables the resolution of numerous cases without the involvement of a judge.[71]

Alternative dispute resolution (ADR) mechanisms are becoming more widely acknowledged even though Russia has historically relied on administrative and judicial processes. Dispute resolution can be expedited, and costs can be reduced through alternative dispute resolution, encompassing mediation, conciliation, and arbitration. In Russia, mediation in tax disputes is still in its infancy and is primarily employed in corporate tax cases. The Government is investigating

[70] Evgeniya Vasilyeva, 'On The Collection Of Tax Debt From Final Beneficiaries In Russia', 2019 https://doi.org/10.32008/NORDSCI2019/B2/V2/26

[71] Л.И. Гадельшина, 'Legal Positions Of The Constitutional Court Of The Russian Federa Tion On Tax Disputes Based On The Materials Of The Resolutions Of 2020–2022', *Vestnik of Russian New University. Series 'Man and Society'*, 3, 2022, 40–52 https://doi.org/10.18137/RNU.V9276.22.03.P.040

methods to incorporate ADR into the general resolution of tax disputes, utilizing models from countries such as the United States and the United Kingdom.[72]

In Russia, the resolution of tax disputes is a multifaceted process encompassing pre-trial settlement, judicial proceedings, and emerging alternative dispute resolution mechanisms. A comprehensive framework for resolving disputes between taxpayers and tax authorities is necessary due to the complexity of the Russian tax system and the necessity of preventing corruption and ensuring compliance.[73] This framework is in a perpetual state of evolution to enhance tax administration's efficiency, transparency, and impartiality. Tax dispute resolution and pre-trial investigation are indispensable for preventing malfeasance and resolving taxpayer complaints. These procedures facilitate the resolution of legal errors and regulatory conflicts without the necessity of enduring protracted court proceedings. The resolution of tax disputes is significantly influenced by the judicial protection of taxpayers' rights. Taxpayers have the right to appeal the actions of tax authorities by the regulations of the Russian Tax Code, specifically, Article 138, which delineates the process for such appeals.[74]

Indonesia should contemplate adopting specific components of the Russian tax dispute resolution system, as it provides a pragmatic, modern, and efficient administrative approach, particularly when managing large volumes of tax disputes. Administrative resolution through the Federal Tax Service is a mandatory initial measure in Russia before taxpayers bring disputes to court. This process promotes a more expeditious resolution, alleviates the burden on the courts, and offers taxpayers and tax authorities the chance to resolve conflicts without escalating them. Furthermore, Russia has effectively incorporated information technology into its tax dispute resolution system by employing administrative digitization and e-justice. This has resulted in the acceleration of workflows, the enhancement of transparency, and the enhancement of accessibility to the legal process for taxpayers. The adoption of a technology-based administrative model, such as the one in Russia, will expedite the dispute resolution process, enhance public services, and fortify taxpayers' confidence in the national tax system in Indonesia, which continues to grapple with the backlog of cases in the Tax Court and the constraints of the electronic judicial system.[75]

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[72] A. Dontsova and E. Dolmatova, 'Judicial Protection of Taxpayer's Rights and Appeal Against Actions of Tax Authorities', *Bulletin of Science and Practice*, 6.1 (2020), 287–91 https://doi.org/10.33619/2414-2948/50/35

[73] М.В.И. КАЛОМБО and others, 'Challenges And Threats To The Tax Security Of The Russian Federation: Problems And Solutions', *Экономика и Предпринимательство*, 11(148), 2023, 321–24 https://doi.org/10.34925/EIP.2022.148.11.061

[74] Dontsova and Dolmatova.

[75] Razela N. Denikaeva, Evgeniy A. Pervyshov, and Alina M. Dinaeva, 'To The Question Of Pre-Judicial Settlement Of Tax Disputes', *EKONOMIKA I UPRAVLENIE: PROBLEMY, RESHENIYA*, 10/1.130 (2022), 116–21 https://doi.org/10.36871/ek.up.p.r.2022.10.01.016

Alternative Dispute Resolution (ADR) for tax disputes has also begun to be implemented in Russia, albeit less comprehensively and popularly than in countries such as the United States or Australia. The tax justice system in Russia continues to rely largely on administrative processes that the Federal Tax Service oversees. However, to alleviate the burden on the courts and offer a more efficient and expedited alternative to dispute resolution, a variety of alternative dispute resolution (ADR) methods have been implemented. Russia has initiated the development of mediation and informal negotiations to administratively resolve tax disputes despite the absence of a dedicated ADR institution for tax disputes. These procedures enable taxpayers and tax authorities to negotiate agreements without protracted legal proceedings.[76]

In Russia, the Alternative Dispute Resolution (ADR) field is expanding to offer a more efficient and less adversarial method of resolving conflicts between tax authorities and taxpayers. ADR mechanisms, such as mediation and arbitration, are currently being investigated as alternatives to conventional litigation, which is frequently costly and protracted. Although challenges persist in their implementation and acceptance, the Russian legal framework progressively integrates these methods to enhance tax dispute resolution.[77]

Tax mediation has been identified as a promising alternative dispute resolution (ADR) instrument despite its limited implementation. The legal framework for mediation in tax disputes is still being developed, and there are demands for more precise regulations to enhance its efficacy. The absence of a comprehensive legal framework that supports ADR in tax disputes in Russia is one of the primary obstacles to its implementation.[78] Furthermore, arbitration in Russia is regarded as a legal certainty and efficient process due to its seamless integration with international standards and practices. This is especially advantageous in international commercial disputes, where parties search for a dependable and predictable resolution process. Arbitration is also regarded as a legal certainty in Indonesia; however, it is more costly and time-consuming than mediation, another widely used dispute-resolution method in the country.

The resolution of tax disputes in Russia is frequently more flexible and expedited than the protracted litigation process in Indonesia, even though the ADR process is not as prevalent as in Australia. This not only alleviates the burden on the courts but also ensures that taxpayers have more equitable access to justice,

[76] Olokooba.
[77] Sergey A. Poryvaev, 'Review of the Practice of Administrative Proceedings in Cases of Challenging Actions (Inaction) and Decisions of the Control and Supervisory Bodies on Bringing to Administrative Responsibility', *Rossijskoe Pravosudie*, 9, 2022, 79–90 https://doi.org/10.37399/issn2072-909X.2022.9.79-90
[78] Mykhaylo Smokovych, 'Certain Aspects Of Administrative Proceedings In The Field Of Resolving Tax Disputes', *Slovo of the National School of Judges of Ukraine*, 1-2(38-39), 2022, 120–28 https://doi.org/10.37566/2707-6849-2022-1-2(38-39)-11

particularly in the case of minor disputes. By implementing this strategy, Indonesia can enhance access to justice for taxpayers, mitigate tensions, and establish a more positive relationship between tax authorities and taxpayers. To guarantee that the dispute resolution process is conducted equitably and transparently, Russia has a Tax Ombudsman who serves as an independent monitor. Indonesia currently lacks a comparable institution to supervise the entire tax dispute resolution process. By adopting this model, the Indonesian tax system can be enhanced in terms of transparency, accountability, and public confidence in tax policy.

### *Indonesian Tax Dispute Resolution in a Cooperative Paradigm*

In Indonesia, the regulation of tax dispute resolution has not demonstrated any cooperative paradigm approach through administrative, legal initiatives (Law on General Provisions and Tax Procedures/KUP) and tax courts (Law on Tax Courts). Based on the experience of resolving tax disputes in tax tribunals and enhancing relations following the disagreement, Indonesia can implement dispute resolution using ADR.[79] Legal discovery is necessary to resolve these legal issues because the law has been unable to address the growing number of tax disputes and the need for taxpayers to obtain dispute resolution promptly. Indonesia can employ legal fiction as an alternative method of legal discovery to ascertain changes in the law, given the widespread implementation of tax dispute resolution through the cooperative paradigm in numerous countries. The primary objective of dispute resolution research will be to resolve disputes through administrative and legal processes rather than litigation.[80]

After reviewing the General Guidelines and Tax Procedures Law, it is possible to utilize ADR as a form of mediation when submitting an objection. A Taxpayer may file a letter of objection to the Director General of Taxes if they are dissatisfied with the tax determination imposed on them or with a reduction/collection by a third party. An Objection Decision Letter is a letter of objection to a complaint (issued by the Director General of Taxes/DGT) against an objection decision letter or reduction/collection by a third party submitted by a Taxpayer.[81] The procedure for filing an objection is governed by the following regulations: Article 25, paragraph (5) and Article 26A of the KUP Law, paragraph 30 paragraph (5) of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations, Regulation of the Minister of Finance of the Republic of Indonesia Number 9/PMK.03/2013

[79] Gabriel Aliu, 'Modern International Tax Dispute Resolution – An African Perspective on the Mutual Agreement Procedure, Arbitration, and the Future', *Intertax*, 52.Issue 6/7 (2024), 476–92 https://doi.org/10.54648/TAXI2024049

[80] Žunić Kovačević.

[81] Kamran Abdullah, 'Enhancing Tax Dispute Resolution: A Proposal for Amendments to the Income Tax Ordinance 2001 for Strengthening Alternative Dispute Resolution Mechanisms', *Indus Journal of Law and Social Sciences*, II.II (2023), 10–14 https://doi.org/10.70540/ijlss.2023(II-II).02

regarding Procedures for Filing Objections, and is amended by PMK RI Number 202/PMK.03/2015.

Implementing mediation as an alternative dispute resolution (ADR) in conjunction with administrative and legal initiatives can foster communication characterized by transparency and familiarity. A mutually beneficial solution will be achieved through mediation, which involves the involvement of a third party in negotiations to ensure that both parties are satisfied. The third party is trusted and independent, and they can provide decision-making considerations that will assist in the peaceful resolution of disputes. The mediator will be able to facilitate a transformative process and a rapid resolution through mandatory mediation. The parties will be able to participate in the early phases of ADR with mediation before the litigation process.[82]

Mediation is voluntary due to its association with taxpayer rights. A new system must be established to reconcile the government's and taxpayers' interests, specifically, the legislative constraints that must be surmounted. Opportunities for resolving tax disputes through mediation may arise due to a collaborative relationship between taxpayers and tax agencies. The settlement can be conducted respectfully if it is established.[83] ADR is anticipated to expedite the dispute resolution process, thereby decreasing the number of tax disputes in the tax court and minimizing taxpayer losses in terms of time and costs during the justice-seeking process. The KUP can be modified in the future to facilitate mediation arrangements.[84]

The author recommends that the Directorate General of Taxation (DGT) incorporate ADR into its plan as a cost-effective and expedient method of resolving tax disputes. The utilization of ADR processes as a less confrontational method of dispute resolution may lead to a more favorable perception of the Directorate General of Taxation (DGT), thereby increasing voluntary compliance and reducing the time required for dispute resolution.[85] Tax authorities, including the IRS, ATO, and FNS, as well as the literature, provide support for the utilization of interest-based ADR methods, including facilitation and mediation, as a method of dispute resolution.[86]

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[82] Marco Greggi and Anna Miotto, 'The OECD Dispute Resolution System in Tax Controversies', *Laws*, 13.4 (2024), 45 https://doi.org/10.3390/laws13040045

[83] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapta Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 https://doi.org/10.53955/jsderi.v1i3.15

[84] A. Addamiano, 'Cross-Border Dispute Resolution in Tax Matters: A Luxembourg Overview', *European Taxation*, 64.11 (2024) https://doi.org/10.59403/1yg8h57

[85] F Moosa, 'Review of the New Alternative Dispute Resolution Process for Tax Disputes', *Tydskrif Vir Die Suid-Afrikaanse Reg*, 2023.4 (2023), 660–80 https://doi.org/10.47348/TSAR/2023/i4a4

[86] Giovanni Consolo, *Tax Dispute Resolution in the European Union* (Edward Elgar Publishing, 2024) https://doi.org/10.4337/9781035343362

Therefore, the tax dispute resolution system has the potential to be incorporated into the Directorate General of Taxes (DGT) Future State initiative as a result of the Directorate General of Taxes (DGT) endeavors to facilitate the use of ADR as a fair and efficient dispute resolution method. In light of the applicable regulatory mechanisms, resolving tax disputes in Indonesia is a protracted process. The DGT can also demonstrate a continued commitment to dispute resolution by including its dispute resolution plan in the DGT Strategic Plan, as demonstrated by the IRS, ATO, and FNS. Furthermore, the IRS, ATO, and FNS have shown that the revenue authorities' highest echelons should support a dispute resolution culture. This entails a more significant role for senior revenue authority members, such as the DGT Commissioner and the Head of Appeals, in genuinely advocating for a culture of dispute resolution and ADR in speeches, presentations, and other interactions with professional associations and other key stakeholders. ADR provides the potential to resolve tax disputes in a less confrontational manner. Nevertheless, both parties must actively participate and resolve this issue. This implies that ADR is likely to be effective in the future.[87]

Structural reforms must be implemented to the Tax Court's position to enhance the impartiality and efficacy of tax dispute resolution in Indonesia. The dualism of management between the Ministry of Finance and the Supreme Court generates legal uncertainty and provides an opportunity for executive intervention.[88] Indonesia must thoroughly integrate the Tax Court under the Supreme Court as part of the state administrative court, by the practices of the United States and Australia. This will involve preparing special procedural law (lex specialis) for tax disputes. The judicial institution must also recruit justices independently to ensure neutrality, professionalism, and accountability.[89]

Furthermore, Indonesia must implement alternative dispute resolution (ADR) mechanisms, including mediation and negotiation, within its tax system. The implementation of ADR, which has been demonstrated to be effective in Australia, the United States, and Russia, can expedite dispute resolution, alleviate the burden on the Tax Court, and establish a more harmonious relationship between taxpayers and tax authorities.[90] The General Provisions and Tax Procedures Law (UU KUP) must be amended to regulate ADR regulations expressly. This can be achieved by implementing mediation procedures before submitting cases to court.

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[87] Li.

[88] Setiawan and others.

[89] Hizkia Ivan Nugroho, Novianti Lestari, and Rasji Rasji, 'Legal Protection Efforts for Taxpayers in the Tax Dispute Resolution Mechanism', *QISTINA: Jurnal Multidisiplin Indonesia*, 2.2 (2023), 839–45 https://doi.org/10.57235/qistina.v2i2.811

[90] Jasna Voje, 'The Limits to the Participation of the Taxpayer in Tax Dispute Resolution Procedure Under the Dispute Resolution Directive', *Intertax*, 48.Issue 2 (2020), 157–76 https://doi.org/10.54648/TAXI2020015

To enhance transparency and efficacy, the dispute resolution system must also expedite the implementation of digitalization.[91]

Establishing a Tax Ombudsman institution independent of the Directorate General of Taxation and the Ministry of Finance is essential for improving accountability in tax dispute resolution supervision. Adopting the Australian model, which includes an Inspector-General of Taxation, establishing a Tax Ombudsman in Indonesia will enhance the preservation of taxpayers' rights, foster voluntary compliance, and enhance public confidence in the tax system. This comprehensive reform will fortify Indonesia's status as a nation of law that prioritizes justice, legal certainty, and efficacy in resolving tax disputes.

## 4. Conclusion

The independence of the tax court is jeopardized by the disharmony between the Tax Court Law, the Judicial Power Law, and the KUP Law, which is prevented by tax settlement in Indonesia. In Indonesia, resolving tax settlements involves the following stages: approval, binding, lawsuits, and judicial review to the Supreme Court. The Tax Court's independence is enhanced by structural reform, as outlined in Constitutional Court Decision Number 26/PUU-XXI/2023. However, a conflict of interest was previously established by the dual guidance system from the Supreme Court and the Ministry of Finance. Significant challenges remain in resolving current tensions, including the accumulation of a large number of cases, the duration of the process, the high costs, and the centralization in Jakarta, which impedes accessibility. Furthermore, implementing the Alternative Dispute Resolution (ADR) mechanism in other nations, including the United States, Australia, and Russia, has demonstrated its capacity to enhance taxpayer trust, impartiality, and efficiency. Consequently, urgent reform is required to strengthen Indonesia's tax collection settlement system. This can be achieved by completely integrating the Tax Court into an independent judicial system under the Supreme Court, establishing a clear tax procedural legal framework, and adopting an ADR mechanism. Implementing Alternative Dispute Resolution (ADR) mechanisms, such as mediation, is necessary to facilitate the resolution process and alleviate the burden on the Tax Court in Indonesian tax settlement. Besides that, the Directorate General of Taxes (DGT) is advised to incorporate ADR into its strategic plan and redefine the Tax Court's role to ensure greater independence and integration with the Supreme Court. The accelerated implementation of ADR and digitalization will enhance the relationship between tax authorities and taxpayers and strengthen a fair and efficient tax system by increasing transparency and accountability.

[91] Ehab Farah, 'Mandatory Arbitration of International Tax Disputes: A Solution in Search of a Problem', *Florida Tax Review*, 9.8 (2022) https://doi.org/10.5744/ftr.2009.1008

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