

# Legal Discovery in Indonesia's Tax Dispute Framework



Efendi Ibnususilo <sup>a,\*</sup>, Fithriatus Shalihah <sup>b</sup>, Nisa Istiani <sup>c</sup>, Faiqah Nur Azizah <sup>d</sup>

<sup>a</sup> Faculty of Law, Universitas Islam Riau, Riau, Indonesia.

<sup>b</sup> Faculty of Law, Universitas Ahmad Dahlan, Yogyakarta, Indonesia.

<sup>c</sup> University of Washington School of Law, United States.

<sup>d</sup> Faculty of Law, RUDN University, Moscow, Russia.

\*Corresponding Author: [efendiibnususilo@law.uir.ac.id](mailto:efendiibnususilo@law.uir.ac.id)

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## ABSTRACT

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This study analyzes the normative disharmony among the Tax Court Law, the Judicial Power Law, and the General Provisions and Tax Procedures Law (KUP Law) and examines its implications for the independence and institutional authority of the Tax Court in Indonesia. The inconsistency among these statutory instruments generates juridical uncertainty concerning the structural position of the Tax Court within the national judicial system and obscures the proper framework for institutional oversight. This research aims to assess the existing tax dispute resolution system and to formulate institutional reform proposals through a comparative evaluation of tax adjudication models in the United States, Australia, and Russia. Employing normative legal research, this study applies legislative, conceptual, and comparative approaches to examine statutory coherence and institutional design. The findings demonstrate that, first, dual supervision by the Supreme Court and the Ministry of Finance constrains the structural independence of the Tax Court; second, procedural limitations, including case accumulation, extended adjudication timelines, significant litigation costs, and restricted regional accessibility, reduce the effectiveness of dispute resolution; and third, the absence of a structured Alternative Dispute Resolution framework limits procedural flexibility and institutional responsiveness. Based on these findings, this study argues that placing the Tax Court fully under the authority of the Supreme Court and institutionalizing Alternative Dispute Resolution mechanisms would strengthen judicial independence, improve procedural efficiency, and enhance public confidence in the national tax adjudication system.



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## 1. Introduction

The Tax Court functions as the court of first and, in certain cases, final instance in the examination and adjudication of tax disputes, exercising judicial authority to review and determine claims arising from tax assessments and administrative decisions in accordance with statutory provisions.<sup>1</sup> In the event that a Tax Court decision is unchallengeable at the General Court, State Administrative Court, or

<sup>1</sup> 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>

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.<sup>2</sup> 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.<sup>3</sup>

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.<sup>4</sup>

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

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<sup>2</sup> 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>

<sup>3</sup> 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>

<sup>4</sup> 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>

(executive)power.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup>

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.<sup>8</sup>

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

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<sup>5</sup> 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>

<sup>6</sup> Mega Nurmala Sari and Riatu Mariatul Qibthiyah, '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\(95\)](https://doi.org/10.35609/gcbssproceeding.2022.1(95))

<sup>7</sup> Basuki Kurniawan and Nita Ryan Purbosari, 'Penyelesaian Disharmoni Peraturan Perundang-Undangan Melalui Jalur Mediasi', *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyah Fakultas Syariah IAIN Mataram*, 14.1 (2022), 83–96 <https://doi.org/10.20414/alihkam.v14i1.4734>

<sup>8</sup> 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>

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.<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

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

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<sup>9</sup> 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>

<sup>10</sup> 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>

<sup>11</sup> 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>

<sup>12</sup> 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>

irregularities for taxpayers and the Directorate General of Taxes. The unclear institutional position of the Tax Court and the lack of a comprehensive procedural legal system reinforce the urgency of restructuring its institutional structure and regulatory framework to align with the principle of an independent judiciary as guaranteed by the Constitution. It is in this context that constitutional intervention through a Constitutional Court ruling becomes significant as a corrective measure to address the ongoing asymmetry.

Constitutional Court Decision Number 26/PUU-XXI/2023 dated May 25, 2023 has indirectly restored one of the most important characteristics of the judicial institution, namely Independence in the Tax Court. In the explanation of Article 9 paragraph (1) of Law Number 51 of 2009, it is stated that a special court is a differentiation or specialization in the state administrative court environment, for example the Tax Court. Thus, the Constitutional Court through Decision Number 26/PUU-XXI/2023 dated May 25, 2023, in addition to confirming, also restored the position of the Tax Court as a special court within the state administrative court environment. Based on this decision, the organizational, administrative and financial development of the Tax Court was transferred under the Supreme Court and the maximum deadline for the transfer of the authority to develop the Tax Court under one roof under the Supreme Court is in stages until December 31, 2026. As a special court, the existence of the Tax Court is expected to provide justice in the fields of taxation and customs for the public<sup>9</sup> in a relatively faster time, so that not only the issue of justice is expected but also legal certainty and benefits for the greatest interests of the nation and state.<sup>13</sup>

The number of Tax Court decisions has shown a general upward trend over the past six years. In 2019, the number of decisions reached 10,166 cases, then remained relatively stable in 2020 with 10,128 cases. Entering 2021, the number increased to 12,959 cases, and continued to rise in 2022 to 15,561 cases. The upward trend continued in 2023 with 16,278 cases, and remained relatively stagnant in 2024 with 16,287 cases. Cumulatively, during the 2019–2024 period, the Tax Court resolved 81,379 tax disputes. In 2023, the Constitutional Court issued Decision Number 26/PUU-XXI/2023. It can be concluded that the settlement of tax disputes following the Constitutional Court Decision has resulted in a greater number of taxpayers winning.

The high volume of cases not only reflects increased taxpayer legal awareness but also indicates suboptimal dispute resolution mechanisms at the administrative level. This situation demands a more efficient, adaptive, and prevention-oriented approach to ensure that the resolution process does not rely entirely on litigation in the Tax Court. Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution.

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<sup>13</sup> 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>

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.<sup>14</sup>

Philosophically, the incorporation of ADR into tax dispute resolution must be grounded in the principles of the rule of law (*rechtsstaat*), proportionality, and procedural justice. In a constitutional democracy, the exercise of fiscal authority must be balanced with the protection of individual rights. ADR reflects a shift from a rigid command-and-control paradigm toward a responsive regulatory model that prioritizes fairness, dialogue, and trust-building. From the perspective of procedural justice theory, dispute resolution mechanisms that promote participation, neutrality, transparency, and reasoned decision-making enhance voluntary compliance and institutional legitimacy. 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.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup>

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

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<sup>14</sup> 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>

<sup>15</sup> 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>

<sup>16</sup> 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>

<sup>17</sup> 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>

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 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.<sup>18</sup> 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.<sup>19</sup> Furthermore, Khoirul Hidayah's

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<sup>18</sup> Mushawirya.

<sup>19</sup> 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>

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.<sup>20</sup>

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.<sup>21</sup> 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 research aims to build a conceptual framework of legal discovery in resolving Indonesian tax disputes as a response to regulatory disharmony and institutional ambiguity of the Tax Court, in order to strengthen judicial independence, consistency of legal application, and protection of taxpayers' constitutional rights in the national legal system. This research develops an analytical framework that integrates the theories of constitutionalism, judicial independence, and dispute system design (DSD) to formulate an ADR model that is not merely procedural, but functions as a structural instrument to realize substantive justice and legal certainty in the taxation sector.

## 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

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<sup>20</sup> Hidayah.

<sup>21</sup> 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>

theory being discussed within a specific context.<sup>22</sup> 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.<sup>23</sup> Legal, conceptual, case, analytical, and philosophical methodologies are implemented. The document study method is the selected data collection strategy for this investigation. 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. 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.

### 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,

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<sup>22</sup> 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>

<sup>23</sup> 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>

there has been no subsequent action, so the resolution of tax disputes continues to be governed by Law Number 14 of 2002.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup>

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.<sup>27</sup>

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.

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<sup>24</sup> 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>

<sup>25</sup> Mega Nurmala Sari and Riatu Mariatul Qibthiyah, '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\(3\)](https://doi.org/10.35609/afr.2022.7.2(3))

<sup>26</sup> 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>

<sup>27</sup> 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>

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.<sup>28</sup>

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.<sup>29</sup> 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.<sup>30</sup> 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.<sup>31</sup>

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.<sup>32</sup>

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<sup>28</sup> Listanti.

<sup>29</sup> 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>

<sup>30</sup> Al Fadilla Yoga Brata and Rakotoarisoa Maminaiaina Heritiana Sadera, '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>

<sup>31</sup> 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>

<sup>32</sup> 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>

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.<sup>33</sup> 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.<sup>34</sup>

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.<sup>35</sup> 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.<sup>36</sup> 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.<sup>37</sup>

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<sup>33</sup> 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>

<sup>34</sup> Henry DP Sinaga.

<sup>35</sup> 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>

<sup>36</sup> 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>

<sup>37</sup> 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>

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.<sup>38</sup> 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.

### *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.<sup>39</sup>

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

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<sup>38</sup> Dinda Agustin Wulandari, Abdul Kadir Jaelani, and Hilaire Tegan, '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>

<sup>39</sup> Iswanto Iswanto, 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>

it disputes a taxpayer's self-assessment.<sup>40</sup> 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.<sup>41</sup> The system is intended to facilitate the timely resolution of disputes while guaranteeing the decision-making process's impartiality and expertise.<sup>42</sup>

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.<sup>43</sup>

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

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<sup>40</sup> Ruwaidah Afyati 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>

<sup>41</sup> 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>

<sup>42</sup> 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>

<sup>43</sup> 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>

90 days unless the taxpayer consents to the assessment.<sup>44</sup> 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 litigation has been finalized, including after an appeal to a higher court, if the taxpayer exercises their right to petition the Tax Court.<sup>45</sup>

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).<sup>46</sup>

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.<sup>47</sup>

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

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<sup>44</sup> '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>

<sup>45</sup> 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>

<sup>46</sup> 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>

<sup>47</sup> Avgar and others.

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.<sup>48</sup>

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.<sup>49</sup> 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.<sup>50</sup>

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

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<sup>48</sup> 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>

<sup>49</sup> 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>

<sup>50</sup> Defi.

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.<sup>51</sup> 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.<sup>52</sup>

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.<sup>53</sup>

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.<sup>54</sup>

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

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<sup>51</sup> 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>

<sup>52</sup> 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>

<sup>53</sup> 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>

<sup>54</sup> Hidayah.

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.<sup>55</sup>

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.<sup>56</sup>

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.<sup>57</sup>

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

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<sup>55</sup> 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](https://doi.org/10.1007/978-981-13-2607-3_12)

<sup>56</sup> 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>

<sup>57</sup> Afiyati and others.

adversarial nature of court proceedings, in which the parties present their case to a judge who serves as an impartial arbiter.<sup>58</sup>

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.<sup>59</sup>

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.<sup>60</sup> 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.<sup>61</sup> 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

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<sup>58</sup> 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>

<sup>59</sup> 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>

<sup>60</sup> . and Gayo.

<sup>61</sup> 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>

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.<sup>62</sup>

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.<sup>63</sup>

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 methods to incorporate ADR into the general resolution of tax disputes, utilizing models from countries such as the United States and the United Kingdom.<sup>64</sup>

In Russia, the resolution of tax disputes is a multifaceted process encompassing pre-trial settlement, judicial proceedings, and emerging alternative dispute

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<sup>62</sup> Evgeniya Vasilyeva, 'On The Collection Of Tax Debt From Final Beneficiaries In Russia', 2019 <https://doi.org/10.32008/NORDSCI2019/B2/V2/26>

<sup>63</sup> Л.И. Гадельшина, 'Legal Positions Of The Constitutional Court Of The Russian Federation 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>

<sup>64</sup> 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>

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.<sup>65</sup> 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.<sup>66</sup>

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.<sup>67</sup>

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

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<sup>65</sup> M.B.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>

<sup>66</sup> Dontsova and Dolmatova.

<sup>67</sup> 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>

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.<sup>68</sup>

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.<sup>69</sup>

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.<sup>70</sup> 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

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<sup>68</sup> Olokooba.

<sup>69</sup> 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>

<sup>70</sup> 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](https://doi.org/10.37566/2707-6849-2022-1-2(38-39)-11)

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.<sup>71</sup> 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.<sup>72</sup>

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.<sup>73</sup> 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 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

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<sup>71</sup> 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>

<sup>72</sup> Žunić Kovačević.

<sup>73</sup> 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](https://doi.org/10.70540/ijlss.2023(II-II).02)

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.<sup>74</sup>

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.<sup>75</sup> 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.<sup>76</sup>

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.<sup>77</sup> 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.<sup>78</sup>

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

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<sup>74</sup> Marco Greggi and Anna Miotto, 'The OECD Dispute Resolution System in Tax Controversies', *Laws*, 13.4 (2024), 45 <https://doi.org/10.3390/laws13040045>

<sup>75</sup> 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>

<sup>76</sup> A. Addamiano, 'Cross-Border Dispute Resolution in Tax Matters: A Luxembourg Overview', *European Taxation*, 64.11 (2024) <https://doi.org/10.59403/1yg8h57>

<sup>77</sup> 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>

<sup>78</sup> Giovanni Consolo, *Tax Dispute Resolution in the European Union* (Edward Elgar Publishing, 2024) <https://doi.org/10.4337/9781035343362>

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.<sup>79</sup>

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.<sup>80</sup> 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.<sup>81</sup>

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.<sup>82</sup> 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.<sup>83</sup>

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

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<sup>79</sup> Li.

<sup>80</sup> Setiawan and others.

<sup>81</sup> 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>

<sup>82</sup> 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>

<sup>83</sup> 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/ft.2009.1008>

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.

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