

Characteristics of the Tax Court as an Independent Judicial Authority in Indonesia: An Analytical Study on the Implementation of the Tax Court as an Independent Judicial Body

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Abstract

Tax Court is a special court which is a judicial body that exercises judicial power for taxpayers or tax bearers seeking justice for tax disputes. The problems in this study include, first, how is the practice of dispute resolution in the tax court as a judicial body that carries out independent judicial power? Second, how to regulate the competence of tax court judges in examining and deciding tax disputes as a judicial body that exercises independent judicial power? Third, how to realize the ideal tax court in the future as a judicial body that exercises independent judicial power? The research method used is descriptive analytical research, with a juridical-normative approach as the main approach and supported by a historical-comparative approach. The results of the study show that, firstly, the practice of tax dispute resolution in the tax court is regulated in articles of procedural law starting from Article 34 to Article 93 of Law No. 14 of 2002 concerning the Tax Court. In examining and deciding on tax disputes, the appeal applicant or plaintiff submits a written application to the Tax Court which is received by the implementing employee by being given a receipt and recorded in the dispute list which in practice is not carried out by the Registrar or Substitute Registrar like judicial bodies in general as the executor of judicial power. . Second, the regulation of the competence of tax court judges in examining and deciding tax disputes as a judicial body exercising independent judicial powers is affirmed in Article 2 and Article 31 of Law No. 14 of 2002 concerning Tax Courts. However, the desired concept is not in sync with the fact that tax court judges are not required to have a law degree, so that tax court judges have different disciplines, as a result, the judges' perspective on the dispute they face is also different, the assessment by the disputing parties that tax court decisions are unfair or inconsistent or incorrectly apply valid laws or do not make decisions of the Supreme Court that have permanent legal force as a source of law. Third, to realize the ideal Tax Court in the future, the main thing that must be addressed is the legal umbrella for the implementation of the work of the tax court itself. The results of the study found that the formation of Law No. 14 of 2002 concerning the Tax Court whose contents or contents were not in accordance with the principles of the formation of laws and regulations. Because its formation is not in accordance with the reformation of the legal sector which is an order from the People's Consultative Assembly of the Republic of Indonesia to the Supreme Court as the executor of judicial power in the Republic of Indonesia for the realization of the concept of a unified judicial institution in Indonesia. Based on the results of the research and as an academic recommendation, it is suggested, First, the practice of resolving tax disputes in the tax court as a judicial body that exercises independent judicial power, so that the acceptance of the appeal or lawsuit file is carried out by the clerk or substitute clerk and requires the presence of the appeal applicant or plaintiff in trial, as well as the decision of the tax court, other legal remedies can be taken, namely an cassation to the Supreme Court. Second, realizing the competence of tax court judges through the selection of tax court judges who are required to hold a law degree, have the ability in the field of law in general in addition to being an expert in taxation and mastering judicial procedural law, and do not have the status of a civil servant at the Ministry of Finance or Regional Government. Third, the realization of an ideal Tax Court in the future as a judicial body that exercises independent judicial power.

Keywords: Tax Court, Judicial Power, Tax Dispute, Judge Competence, Tax Court Decision

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I. Introduction

Tax Court is a Special Court which is a Judicial Body authorized to examine and decide on tax disputes between tax bearers or taxpayers and tax officials as a result of the issuance of a decision by a tax agency official on a tax assessment or bill. The legal principle in the Tax Court, especially the examination of evidence, is that the Judge is active and the Appellant or Defendant must prove that the decision or determination issued does not conflict with the applicable laws and regulations. This is because the evidence in Tax Disputes includes proof of the correctness of tax calculations, correctness of tariff determination, correctness of procedures in tax determination, and implementation of laws and regulations governing taxation used in tax determination.

Taxes as the main source of state revenue for government and development financing are state levies which are orders from the constitution as formulated in Article 23 A of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) which reads "Taxes and other levies that are coercive for the purposes of the State are regulated by law". Provision. This shows how important the tax issue is, so it must be regulated directly by law, not by other regulations that are lower than the law (Sugiharti, 2011).

To follow up on the attributive authority granted by the 1945 Constitution, based on Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended lastly by Law Number 28 of 2007, the authority is delegated to government institutions that carry out the duties and The responsibility for collecting state revenues is carried out by the Directorate General of Taxes (DGT) which collects Value Added Tax (PPN), Income Tax (PPh) and Sales Tax on Luxury Goods (PPnBM), and based on Law Number 10 of 1995 concerning Customs as already stated amended by Law Number 17 of 2006 and Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 the authority to implement is delegated to the Directorate General of Customs and Excise (DJBC) which has the authority to collect taxes in the form of Import Duties , Export Duties, Excise and Taxes in order to import. and Domestic Excise and the implementation authority is delegated to the Regional Government (PEMDA) which has the task of collecting taxes in the form of: Urban and Rural Land and Building Tax (PBB), Customs for Acquisition of Rights on Land and Buildings (BPHTB), Regional Taxes and Levies.

Tax levies are imposed on domestic tax subjects and foreign tax subjects, domestic taxpayers on income from domestic tax objects and on income from foreign tax objects, persons or entities residing or domiciled abroad, if the person or entity earns income from a tax object that is in the country, and the person enters the goods into the Customs Area (imports) or takes goods out of the customs area (exports) as well as entrepreneurs of excisable goods (BKC). Taxes collected as state revenues are used to finance State Expenditures in the context of running the wheels of Government. Taxes levied by the central government to meet the State Revenue and Expenditure Budget (APBN) and regional taxes and regional levies levied by the regional government to meet the Regional Revenue and Expenditure Budget (APBD).

Initially, tax collection was carried out by official assessment where tax payments were made by taxpayers after going through a determination by the Tax Official, but since Law Number 6 of 1983 which came into effect on January 1, 1984 the official assessment system was replaced with a self-assessment system where the calculation and Tax payments are made by the taxpayer himself. The purpose of the self-assessment system is to give confidence to taxpayers to calculate, calculate and pay their own tax obligations that must be fulfilled or taxes owed in accordance with tax laws and regulations, this shows that the Indonesian nation is an honest and accountable nation. God Almighty and myself as well as to the nation and the State in implementing the tax program known as Tax Reform (Soemitro, 1990), so that through this system the implementation of tax administration is expected to be carried out more neatly, controlled, simple and easy to understand by members. Taxpayer community and eliminate convoluted services, and avoid personal contact between taxpayers and tax officials.

Government institutions that are authorized to collect taxes are carried out by the Directorate General of Taxes (DGT), the Directorate General of Customs and Excise (DJBC) collects central taxes, and Regional Governments (PEMDAs) collect local taxes according to their functions. The task of collecting taxes is carried out by officials who come from employees of the relevant agency. Officials of the Directorate General of Taxes (DGT) have the authority to collect central taxes in the form of Value Added Tax (PPN), Sales Tax on Luxury Goods (PPnBM) and Income Tax (PPh) and Land and Building Tax (PBB) in addition to urban and rural PBB. The General of Customs and Excise (DJBC) is authorized to levy taxes in the form of Import Duties, Export Duties, and Excise, Taxes in the Context of Imports in the form of PPN, PPnBM and PPh and Regional Government Officials (PEMDA) are authorized to collect taxes in the form of Regional Taxes and Regional Levies, Taxes Land and Building (PBB) in urban and rural areas and Customs for the Acquisition of Rights on Land and Buildings (BPHTB), these officials in addition to collecting taxes in their respective fields are also authorized to collect underpaid taxes and interest on taxes, as well as administrative sanctions in the form of fines.

Tax collection is carried out by officials of the Directorate General of Taxes, officials of the Directorate General of Customs and Excise, and officials of regional governments. The official is authorized to decide and stipulate that the imposition of unpaid or underpaid tax bills at the government agency is carried out by a tax collector official known as the State Administrative Officer.

In collecting taxes carried out by tax collectors, there are often debates and differences of opinion between the tax collectors and the tax underwriters or taxpayers due to differences in tax calculations and differences in interpretation of tax rules. These differences are referred to as tax disputes. Tax disputes occur due to the issuance of a tax assessment letter or tax collection letter or assessment letter by the tax collector official to the tax guarantor or taxpayer. Taxpayers who feel that they are being treated inappropriately or feel that they are being treated unfairly by the tax administration, because the tax collector has explained correctly and honestly about the existence of their business, supported by the correct data, but the tax officers the tax collector does not want to accept the reasons put forward by the tax insurer. As a result of the determination of the tax collector official, the tax guarantor or taxpayer is confused about where to look for truth and justice.

The Objection Decision that rejects the objection request, the taxpayer or the tax insurer feels disappointed, because according to him the tax that has been paid is correct and in accordance with the provisions of the applicable tax laws and regulations. The next question is where else for the taxpayer to seek truth and justice? For this reason, the government has established an Appeals Institution which is tasked with resolving tax disputes between tax collectors and tax bearers or taxpayers due to the issuance of an Objection Decision that rejects the taxpayer's objection application by a tax official that is not accepted by the tax insurer. The Appellate Body is called the Tax Advisory Council (still at the executive level).

The Tax Court was established based on Law Number 14 of 2002 concerning the Tax Court. The considerations for the establishment of the Tax Court stated, among other things, that the Tax Dispute Settlement Agency (BPSP) is not yet a judicial body culminating in the Supreme Court, therefore a Tax Court is required in accordance with the tax system. Judicial power in Indonesia and able to create legal certainty and justice in the settlement of tax disputes. Thus the Tax Court is one of the judicial institutions that exercise judicial power in Indonesia. This is regulated in Article 2 of Law Number 14 of 2002 which states "The Tax Court is a judicial body that exercises judicial power for taxpayers or tax bearers seeking justice for tax disputes.

Another legal basis used in the formation of Law Number 14 of 2002 concerning the Tax Court is Article 13 of Law Number 14 of 1970 concerning Basic Provisions of Judicial Power which was promulgated on December 17, 1970, as amended by Law Number 35 of 1999 concerning Amendments to Law Number 14 of 1970 concerning Basic Provisions of Judicial Power which states as follows "Special judicial bodies in addition to existing judicial bodies, can only be established by law."

Thus the Tax Court is a special court, although in Law Number 14 of 1970 with the amendments mentioned above it has not explicitly regulated the position of the tax court as a special court, there is also (Fodel 2014) which states that the Tax Court is an appellate court, which has a special function to resolve cases or disputes in the field of taxation within the framework of the exercise of judicial power.

Likewise, the affirmation that the Tax Court is a Special Court under the State Administrative Court, is regulated in Article 9A along with an explanation of Law Number 5 of 1986 as amended the second by Law Number 51 of 2009. Tax disputes are disputes that arise in the field of taxation between the taxpayer or tax bearer and the competent authority as a result of the issuance of a decision that can be appealed or a lawsuit to the tax court based on the tax laws and regulations, including a lawsuit for the implementation of collection based on the tax collection law by force letter. The provisions on procedural law are regulated separately to organize a tax court, namely in Article 34 to Article 93 of Law No. 14 of 2002.

Tax is a state levy imposed on taxpayers whose type is determined or determined by law. The types of taxes disputed in the Tax Court include: tax disputes over collection of Value Added Tax (PPN), Income Tax (PPH), Land and Building Tax (PBB), Land and Building Rights Acquisition Fee (BPHTB), Tax Collection by Letter Forced, Import Duties, Export Duties, Excise, Regional Taxes, Interest on Taxes, and administrative sanctions in the form of fines.

Meanwhile, the principle of power sharing as the second characteristic of the rule of law according to classical understanding, also aims to limit the power of the state or government. Likewise, the element of spreading state power (spreading van de staatsmacht) is an attempt to limit the power of the state/government. Meanwhile, the elements of guaranteeing human rights, equality before the law, legal protection, and the principle of legality, aim to prevent the state or government from acting arbitrarily. This means that the actions or actions of the government must not exceed or violate human rights, must not cause people to not receive proper legal protection, or may not discriminate against people for illegal reasons and finally all actions or actions of the government must be able to be accounted for based on the provisions (law) in force.

The state or government in a legal state according to classical understanding has very limited powers, namely maintaining security and order. The position of the State as the guardian of security and order then changed. Changes occur because of changes in the conception of the rule of law. The state or government does not only carry out the authority, duties and responsibilities of maintaining security and order, but also bears the responsibility for realizing welfare and social justice for all its people (Utrecht, 1963).

The shift in the authority, duties and responsibilities of the state government has also led to a shift in thinking about the concept of a populist state and the conception of the rule of law. Democracy in the political

sense is no longer adequate and is even considered not to be able to be an effective means to realize welfare and social justice.

II. Literature Review

1. Rule of Law Theory

The State of Indonesia is a state of law, according to the formulation of Article 1 Paragraph (3) of the 1945 Constitution after the amendment, whereas in the era before the amendment the statement that the State of Indonesia was a state of law was not stated in the body but was listed in the Elucidation of the 1945 Constitution, especially regarding the State Government System number 1 which states "The Indonesian state is based on law (rechtstaat) not based on mere power (machtstaat)." (Marisson, 2005)

In relation to the sentence above, Sjahran Basah said: the meaning of the rule of law is inseparable from its pillar itself, namely understanding the rule of law. That understanding is a teaching which states that the highest power lies in the law or there is no other power except the legal power which in this case is based on Pancasila as the source of all legal sources (Wet, 1997). The further will of the founding fathers in forming the government of the Indonesian state, whose purpose is clearly stated in the fourth paragraph of the Preamble to the 1945 Constitution, has also determined its pillar, namely people's sovereignty. This sovereignty is exercised entirely by the People's Consultative Assembly (MPR). This situation creates a harmonious integral duet between the understanding of the rule of law and the understanding of people's sovereignty based on the monodualistic principle as pillars, which are essentially constitutive in nature. Then the things above are contradictory and strictly separated between the rule of law on the one hand and the state of power on the other which can manifest as in the form of a dictator, or other similar forms, which is not desired if it is carried out in this homeland.

From the formulation of the constitution and the doctrinal views above, it has been emphasized that since independence until now, the Republic of Indonesia is a State of Law. This means that the power obtained and owned by government institutions in the state is subject to legal power and all citizens are equal before the law, or in other words the state places law as the basis of state power (rule of law) and the implementation of state power by state officials is limited by law in all its forms and manifestations and must be subject to the rule of law.

2. Theory of Judicial Power

One of the absolute requirements in a state based on law is the existence of a law that protects human and citizen rights which are legally contained in laws and regulations. Law, whether written or unwritten, as a legal norm or principle, must also be institutionalized or manifested in the functions and duties of legal institutions (law enforcement and legal protection) and even take action in the event of arbitrary actions by the government against its citizens. Therefore, the existence of a government institution that is formed through a constitutional and democratic process through a free and periodic election, actually will also be formed requires an independent, impartial judicial apparatus or institution to enforce the principle of the rule of law properly, appropriately and fairly.

To understand the power of an independent judiciary, of course, it cannot be separated from the theory of separation of powers introduced by John Locke and Montesquieu. The purpose and need for the separation of powers in the state is to guarantee the political liberty of citizens. In this case by Montesquieu interpreted as: "a transparency of mind arising from the opinion of each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another."

Thus political freedom is marked by a sense of security, because everyone feels that their security or safety is guaranteed. To realize this political freedom, the governing body must be arranged in such a way that people do not feel afraid of it, just as everyone does not feel afraid of other people around them.

Based on the opinion above and if it is related to the duties of judges, the independence of judicial power will not be created if the judges are in bonds of loyalty, both personal and group bonds. Furthermore, Rani (2010), quoting Richard D. Aldrich's opinion, said that the independence of judicial power means: "that individual judges must remain free of influences, excepts for the dictates of law, the constitution, reasoned decision, legal precedent, and the dictates of the judges individual consciences" laws, constitutions, sound judgments, legal precedents, and the dictates of the conscience of the judges themselves.)

3. Legal Political Theory

Legal politics as part of legal science studies various changes to positive law so that it can meet the demands and expectations of the community. Where will the desired direction of change in a legal order as ius constituendum in the future if the legal order that applies as ius constitutum no longer meets the needs of the community. That is why the object of legal politics is law as a result of a policy or decision, so legal politics is very important for legal experts and also institutions authorized to establish law.

The statement above is in line with the opinion of Soehino (2010) which among other things states that legal politics studies and studies:

a. The process or procedure for the formation of laws and regulations, in this case the process or procedure for the formation of the *ius constituendum* from the *ius constitutum* in the context of dealing with changes in people's lives; and

b. The result or product of legal changes, *ius constituendum*, which is formed or produced that determines the framework and direction of legal development

Thus, it is correct to say that there is a close relationship between law and politics with the thesis that law is a product of political decisions (law is a political decision), including legislation in the field of taxation, including the law on courts tax. The statement above is in line with Alfian's opinion, which among other things says: The meeting point between law and politics can be sought, among others, in the field of constitutional law. This field studies the formal aspects of a particular political structure as required by the existing constitution and the laws and regulations that complement it. It examines how political power is regulated and divided, what are the functions of certain institutions, what are the political rights and obligations of community members (citizens), how the actual rules of the political game must apply, and who knows what else. It is described legally formally, namely as desired by the Constitution. From there it will be seen the formal framework of a form of government that is considered to reflect an ideal political system.

4. Theory of Justice

Injustice appears in many countries, the causes of injustice are very diverse depending on how each country manages/manages the country, such as arbitrariness, law enforcement, social welfare, human rights and so on. Therefore, a country in its constitution or constitution always includes justice as the goal of the state.

One of the goals of the state is to realize justice for all its people, because justice is a value that embodies a balance between the parts in the unity between personal goals and common goals. Thanks to justice, the stability of life is guaranteed, this value is uncompromising. In a just society the emergence of injustice will never be allowed except to avoid a greater injustice (Huijbers, 1962).

According to Rawls, justice is the primary virtue in social institutions, as is truth in systems of thought. A theory, however elegant and economical, must be rejected or revised if it is not true; likewise laws and institutions, no matter how efficient and orderly, must be reformed or abolished if they are unjust. Everyone has an honor that is based on justice so that even the whole society cannot cancel it. On this basis justice denies that the loss of liberty for some can be justified by the greater gain of others. Justice does not allow the sacrifices imposed on the few to be compounded by most of the benefits enjoyed by the many. Therefore, in a just society the freedom of citizens is considered to be established; the rights guaranteed by justice are not subject to political bargaining or the calculation of social interests. The only thing that allows us to accept a wrong theory is that there is no better theory; analogically, injustice can be tolerated only when it is necessary to avoid a greater injustice. As the main policy of mankind, truth and justice are inviolable.

5. The Theory of Governmental Authority

As stated in Chapter I, the state administration agency or official, including the tax officer (*fiskus*) in carrying out every action, must be based on the applicable laws and regulations (legality principle). This is the basis of authority that comes from state power as an organization of power, and if power is defined as the ability to influence other parties to follow the will of the holder of power, then in the life of a legal state the issue of power, and more specifically the issue of authority or authority historically has emerged since Plato (Marbun, 2011).

Authority or *gezag* is formalized power both over a certain group of people, as well as power over a certain area of government unanimously that comes from legislative power or from government power. The authority (competence, *bevoegdheid*) is only about certain parts or certain fields. So authority is a collection of authorities (*rechtsbevoegdheden*), for example the authority to sign a decree by an official on behalf of the minister, while the authority remains in the hands of the minister. According to SF Marbun, in this situation the mandate was given, where responsibility and accountability remained with the mandate giver (the minister as commander).

Authority is the ability to carry out a public legal action or juridically, authority is the ability to act given by the applicable law to carry out a legal relationship. The nature of government authority, among others, is express-simplified, clear in purpose and objective, bound at a certain time and subject to the limitations of written law and unwritten law. While the content can be general (abstract) for example making a regulation and can also be concrete in the form of a decision or a plan, for example making a spatial plan and providing advice. Apart from that, it is also known that the government's authority is facultative, that is, if the basic regulations determine when and under what circumstances the authority can be used. So the state administrative body/official is not obliged to use their authority, because there are still choices and that choice can only be made after the conditions or things specified in the basic regulations are fulfilled. To find out whether the authority is facultative or not, it depends on the basic rules. While the government authority is bound (*gebonden bestuur*) that is, if the basic

regulations determine the contents of a decision that must be taken in detail, so that the state administrative official cannot do anything other than carry out the provisions literally as in the formulation of the basic regulations. In contrast to discretionary authority, where the basic regulations provide a loose or free scope for state administrative bodies/officials, to refuse or grant, by linking them or placing them on certain conditions that must be met.

Research Methods

1. Tax Court before and after independence

From the historical aspect, the existence of the tax court can be reviewed through the approach of legislation both before and after the enactment of Law No. 14 of 2002 concerning the Tax Court. From the secondary data that the author examines, it describes a process in which the objectives listed in the tax court institution and its existence as a judicial system in practice experience ups and downs because it is directed according to the paradigm of judicial power in effect at that time.

2. Tax Court before independence,

The research begins in the era or period of the existence of the tax court before independence. During this period, Djazoei Sadhani drew an opinion who comprehensively stated that at this time there were already known judicial institutions, both at the first level and at the second level. However, at the first level it cannot be said to be a judiciary in the true sense of the word. The reason is that the institutions that carry out judicial functions are the same as those that carry out tax determination. Moreover, the authority to make decisions on objections to justiaabelen in the form of dolance is Minister van Financien which is then delegated to Directeur van Financien and then to Inspecteur van Financien. In this situation, the taxpayers are in a weak position and it is difficult to get justice. Likewise, if the taxpayer does not accept the objection, it is still possible to take further legal action, namely by filing an appeal.

An appeal was submitted to the Governor General of the Dutch East Indies as regulated in Staatsblad 1915 No. 707 dated December 11, 1915 namely Ordonnantie Tot Regeling van Het Beroep in Belastingzaken where this body was still under the Governor General, with the ex officio chairman being Minister van Financien and its members consist of candidates proposed by the Supreme Court and the Chamber of Commerce and Industry. Under this regulation, the decision on objections to taxpayers is submitted to the Head of Financial Inspection (originally under the authority of the Minister of Finance) whose position is under the Minister of Finance. In addition, a Substitute Chairperson (who in practice is the chairperson of the session) is also appointed who is the Deputy Chief Justice of the Supreme Court.

Then in further developments in 1927 the promulgation of Staatsblaad 1927 No. 29, namely the Ordonnantie tot regeling van beroep in belastingzaken or the Tax Appeals Council which replaced Staatsblaad 1915 No.707. In this new regulation, the position of Chairman of the Tax Appeals Council is regulated, which in Article 2 of this Ordinance is held by the Chief Justice of the Dutch East Indies Supreme Court (Hooggererechtshof). At first the Tax Appeals Council was only given the authority to examine and decide on state (central) tax cases, but since 1930 based on S 1930 No.244 this agency has also been given the authority to settle regional taxes. This agency is domiciled in the national capital (Batavia). In its development in 1936 based on S.1936 No.211 it was stipulated that each submission of an appeal was subject to a duty of 10 guilders which if the appeal was accepted then the duty would be returned (Sadhani, 2008).

3. Tax Court after independence

After independence, on August 18, 1945, the 1945 Constitution was enacted as the valid constitution in Indonesia. In Article II of the Transitional Rules of the 1945 Constitution it is stated "All existing state bodies and regulations are still in effect immediately, as long as new ones have not been enacted according to this Constitution." This article is of course aimed at the situation after the Proclamation, namely to ensure that there is no legal vacuum, so that before the establishment of state agencies and new regulations according to the 1945 Constitution, as long as they do not conflict with this Constitution. Then as evidence by the government on October 10, 1945 issued Government Regulation No. 2 of 1945 concerning Transitional Regulations where in Article 1 it is stated: "All state agencies and regulations that existed until the establishment of the Republic of Indonesia on August 17, 1945, as long as a new one according to the basic constitution has not been made, it is still valid as long as it does not conflict with the constitution.

In its development, the regulations governing the Tax Appeals Council (Ordinance 1927 No.29) were deemed not to conflict with the 1945 Constitution, so they remained in effect with several adjustments. With the issuance of Law No. 5 of 1959 concerning Amendment of Regeling van Het Beroep In Belastingzaken (amended and added, most recently by Staatsblad 1949 No. 251), where the material regulated in this Law actually does not have much effect on the material regulated in Ordinance 1927 No. 29. In the Memorandum of Explanation of Law No. 5 of 1959 it was emphasized that the Tax Advisory Council has the position of an Administrative Court, so

that the swearing of its members by government agencies is inappropriate. With certain considerations, the Government (President c.q. Minister of Justice) proposed that the words of Article 4 "Regeling van het beroep in belastingzaken" Staatsblad 1927 No. 29 where the Chairs (successors) and Members (substitutes) of the Tax Advisory Council take an oath (promise) before the Governor of the Province, before they accept their position, are replaced in such a way that further oaths (promises) can be pronounced before the Chief Justice of the Supreme Court. Thus, the inauguration and oath-taking of the Chairman, substitute Chair and members of the Tax Advisory Council shall be carried out by the Chief Justice of the Supreme Court. The composition of the membership of this Assembly consists of elements of the Supreme Court and the Chamber of Commerce and Industry.

The Tax Advisory Council (abbreviated as MPP) is domiciled in the State Capital, has the status as an administrative justice institution that will provide legal protection to taxpayers, after going through the objection procedure, the tax dispute will eventually be resolved by the MPP. This condition continued even though in 1983 in Indonesia a tax reform was carried out which resulted in legal products including Law no. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) (Sugiharti, 2005).

In 1986, Law no. 5 of 1986 concerning the State Administrative Court (PTUN), one of whose authorities is to resolve tax disputes, with the PTUN Law, tax dispute resolution is included in the court's power, which ultimately leads to the Supreme Court (Sugiharti, 2005).

With the enactment of Law no. 5 of 1986 concerning the State Administrative Court, all MPP decisions are considered as decisions of the Administrative Appeals Agency/Institution, not as decisions of the Administrative Courts Board, so that the decision can be tested for validity by the State Administrative Court, as a result the tax dispute resolution process becomes longer.

4. The Existence of the Tax Court in the Indonesian Judicial System.

As stated above, before independence the existence of the tax court was characterized by the institution of the Tax Advisory Council which at that time was named Raad van Beroep Voor Belasting zaken based on the Ordonnantie tot Regeling van het Beroep in Belasting zaken, Staatsblad 1927 No.29 j.o Staatsblad 1933 No.6, as an administrative tribunal. Then based on Law Number 5 of 1959, Raad van Beroep Voor Belastingzaken changed its name to the Tax Advisory Council (MPP).

The Tax Advisory Council was formed based on the Regeling Van Het Belasting Zaken (Staatsblad 1927 No.29) as last amended by Law No. 5/1959 (State Gazette No.13 and Supplement to the State Gazette No.1748) which functions as an institution for settlement of appeals. in the field of taxation. Then based on Law Number 5 of 1959, Raad van Beroep Voor Belastingzaken changed its name to the Tax Advisory Council (MPP). In its course on May 23, 1997 Law Number 17 of 1997 concerning the Tax Dispute Settlement Agency (BPSP) was enacted.

Based on Law Number 5 of 1986 concerning the State Administrative Court, all MPP decisions are considered as decisions of the Administrative Appeals Agency/Institution, not as decisions of the Administrative Courts Board, so that the decision can be tested for validity by the State Administrative Court, as a result the tax dispute resolution process becomes more complicated. long. Likewise with the Tax Dispute Settlement Agency (BPSP), because BPSP is not yet a judicial body culminating in the Supreme Court so that its decision can be tested for validity by the State Administrative Court.

The existence of BPSP is not yet a judicial body that culminates in the Supreme Court, so on April 12, 2002, Law Number 14 of 2002 concerning the Tax Court was promulgated. One of the considerations or considerations in the formation of the tax court law is that the Tax Dispute Settlement Agency is not yet a judicial body culminating in the Supreme Court, therefore a Tax Court is needed in accordance with the judicial power system in Indonesia that is able to create justice and legal certainty in settlement Tax Dispute.

According to Suhendro (2008) based on the consideration that in the implementation of Tax Dispute settlement through BPSP there are still legal uncertainties that can lead to injustice and tax dispute resolution must be carried out fairly through procedures and processes that are fast, cheap and simple, a Tax Court institution was formed based on the Law. Law Number 14 of 2002.

5. Characteristics of the tax court as a special court in the justice system in Indonesia

Tax Court is a judicial body that exercises judicial power for taxpayers or tax insurers seeking justice for tax disputes, Tax Court is a Tax Court body as referred to in Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times lastly by Law Number 16 of 2000, and is a Judicial Body as referred to in Law Number 14 of 1970 concerning Basic Provisions of Judicial Power as amended by Law Number 35 of 1999. The tax court is domiciled in the capital of the State, The session of the Tax Court shall be held at its domicile and if deemed necessary, it may be conducted in another place determined by the Chairperson of the Tax Court. In essence, the location of the Tax Court hearing is at the place of its domicile. However, with consideration to expedite and expedite the handling of tax disputes, the venue for the trial can be held in another place. This is in accordance with the principle of resolving cases that are carried out simply, quickly and at low cost.

Judicial technical guidance for the Tax Court is carried out by the Supreme Court. Organizational, administrative, and financial development for the Tax Court is carried out by the Ministry of Finance. Such guidance may not reduce the freedom of Judges in examining and deciding Tax Disputes. General guidance and supervision of judges is carried out by the Supreme Court. The Chairperson conducts guidance and supervision on the implementation of the duties and behavior of the Deputy Chairperson, Judge, and Secretary/Clerk. Such guidance and supervision may not reduce the freedom of Judges in examining and deciding Tax Disputes.

The composition of the Tax Court consists of the Chairperson, Member Judges, Secretaries, and Registrars, the Head of the Tax Court consists of a Chair person and a maximum of 5 (five) Deputy Chairpersons. Judges are appointed by the President from the list of candidates proposed by the Minister after obtaining approval from the Chief Justice of the Supreme Court, the Chair and Deputy Chairmen are appointed by the President from the judges proposed by the Minister after obtaining approval from the Chief Justice of the Supreme Court. Chairman. Deputy Chairmen and Judges are appointed for a term of office of 5 (five) years and can be extended for 1 (one) term of office. The Chairperson, Deputy Chairperson, and Judge are State officials who carry out the duties of judicial power in the field of Tax Disputes.

6. Specificity of the Tax Court in the Indonesian Judicial System

The Tax Court as a special court is not explicitly mentioned in Law Number 14 of 2002 concerning the Tax Court, the clause "special court" is only stated in Article 27 paragraph (2) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as has been amended several times, most recently by Law Number 28 of 2007 which states: the decision of the Tax Court is a special court decision within the State administrative court. Furthermore, the clause "special court" is also mentioned in Article 1 point 8 of Law Number 48 of 2009 concerning Judicial Power. which states, "A special court is a court that has the authority to examine, hear and decide on certain cases which are only formed within one of the judicial bodies under the Supreme Court as regulated by law."

Furthermore, in terms of the legal basis used in the formation of Law Number 14 of 2002 concerning the Tax Court. Tax Courts including special courts are referred to in Article 13 of Law Number 14 of 1970 as amended by Law Number 35 of 1999 concerning Amendments to Law Number 14 of 1970 concerning Basic Provisions of Judicial Power which states "Special judicial bodies in addition to existing judicial bodies, can only be held by law". However, Law Number 14 of 1970 has not explicitly regulated where the position of the special judiciary is, especially the tax court. Likewise, Law Number 14 of 2002 does not explicitly state that the tax court is a special court and where the position of the tax court is.

Research Result

A. Practice of Tax Dispute Resolution in the Tax Court

1. Activities of Tax Court Judges

A very significant legal rule that distinguishes between the Tax Court and the Tax Dispute Settlement Agency (BPSP) is Article 2 of Law Number 14 of 2002 concerning the Tax Court which explains that the Tax Court is a judicial body that exercises judicial power for taxpayers or tax insurers who seek justice for Tax Disputes. The difference is found in the body of the two laws, one of which is Article 77 of the BPSP Law and Article 78 of the Tax Court Law which explains that the Tax Court Decision is taken based on the results of the evidentiary assessment, and based on the relevant tax laws and regulations, and based on the judge's conviction. The rule of Article 78 of the Tax Court Law is interpreted by some tax court judges that the tax court judge when examining and deciding on tax disputes, the legal rules used are sufficient to use the legal rules of tax laws and regulations. For a moment we look back at the time the BPSP law was still in effect, although Article 76 of the BPSP Law states: The decision of the tax Dispute Settlement body is a final and permanent decision and is not a State Administrative decision. The same provisions are also regulated in Article 27 of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended by Law Number 9 of 1994, among others, stating that the decision of the tax court is a final and permanent decision and its decision is not a State Administrative decision. However, BPSP's decision can still be tested by the State Administrative Court, because BPSP is not yet a judicial body culminating in the Supreme Court. Therefore, with Article 2 of the Tax Court Law and considering the tax court as the executor (judicial power) and disputes that are examined and decided on juridical issues like a court, ideally, tax court judges in examining and deciding disputes must equip themselves by studying science. In general, other than experts in tax law, the disputes examined and decided at the Tax Court are also related to juridical disputes. So that the expectations of taxpayers who seek justice for Tax Disputes can be realized.

Justice is a fixed price for taxpayers or tax insurers to seek justice and legal certainty for the treatment they experience from tax officials (executives). Taxpayers or tax bearers in carrying out their obligations feel that they have carried out all applicable provisions and procedures starting from submitting Customs notifications or SPT, paying obligations, receiving tax assessments or tax invoices to filing objections that are not

accepted/rejected by tax officials. Therefore, the taxpayer or the insurer to seek legal protection and justice file an appeal to the Tax Court.

Based on the duties and authorities given by Law Number 14 of 2002 concerning the Tax Court. The Tax Court in examining and deciding tax disputes is carried out by a panel of judges or a single judge. In the event that the examination is carried out by the panel of judges, the trial examination is carried out by three judges, one of which is appointed by the chairman of the tax court as chairman of the panel to preside over the trial.

Prior to the determination of the trial day, in the practice of Tax Dispute Settlement at the Tax Court, the first thing that is done is the appellant or the plaintiff submits an appeal or lawsuit to the Tax Court which is received by the implementing official as the officer receiving the dispute file and is given a receipt and given a number from the inside dispute list. In addition to being delivered directly by the appeal applicant/plaintiff or his/her proxy to the Tax Court, it can also be sent via the post office or courier service and given a receipt. An application for appeal or a lawsuit submitted directly to the Tax Court is accepted by the implementing official as the recipient of the appeal file by being given a receipt and recorded in the dispute list.

Receipt of an appeal letter or lawsuit in a tax court is not carried out by the Registrar or Substitute Registrar as a judicial body in general as the executor of judicial power, the purpose of which is that the Registrar or Substitute Registrar can provide direction or guidance when receiving an appeal letter or lawsuit in the context of researching matters administrative formal matters that must be fulfilled in an appeal or lawsuit, because it is possible that the appeal applicant or plaintiff does not understand the process of filing an appeal or lawsuit in the tax court.

The following is a comparison matrix of research or examination of matters of a formal administrative nature between the tax court and the State Administrative Court and the Constitutional Court, as follows:

Table 1. Comparison of Research or Examination between Tax Courts
With the State Administrative Court and the Constitutional Court

Tax Court	State Administrative Court	Constitutional Court
<p>The tax dispute appeal or lawsuit is submitted in writing in Indonesian to the Tax Court (PP) in Jakarta, in its implementation it is received by the implementing employee and is given a receipt and the Appeal Letter or lawsuit is recorded in the dispute/case register by the implementing employee. Appeals or lawsuits are not burdened with paying court fees.</p> <p>Preparation for the trial (before the trial starts) PP asks for a letter of description of appeal (SUB) or a letter of response (ST) on the letter of appeal or letter of lawsuit to the appellant or defendant. The SUB or ST from the Appellant or Defendant is sent to the Appellant or Plaintiff by PP. The Appellant or Plaintiff may submit a Rebuttal (SB) to the Tax Court even though the Appellant/Defendant, or the Appellant/Plaintiff do not fulfill the conditions for submitting the SUB/ST or SB, the Tax Court will continue to conduct the examination with the Ordinary Procedure.</p> <p>The Tax Court does not recognize the existence of a deliberative</p>	<p>Lawsuits for State Administration disputes are filed in written form, in the event that they are not good at reading and writing, they can express their desire to sue to the court clerk who will help formulate their lawsuit in written form.</p> <p>The lawsuit is submitted to the competent Court whose jurisdiction covers the domicile of the Defendant. (or a Court whose jurisdiction includes the domicile of one of the TUN Bodies or Officials or a Court whose jurisdiction includes the residence of the plaintiff, or to the Court in Jakarta, (depending on the place of residence, position of the plaintiff or the Defendant- Article 54-PTUN),</p> <p>The Plaintiff pays an advance for court fees unless declared unable and the lawsuit is recorded in the case register by the Court Clerk.</p> <p>Before the trial day is determined, the Chief Justice has the authority to issue a decision in a deliberation meeting (Dismissal Process) which is an examination of matters of a formal administrative nature that must be fulfilled in a lawsuit.</p> <p>Determination with the consideration that the lawsuit filed is declared</p>	<p>The application is submitted in writing in Indonesian by the applicant or his proxy and signed, submitted to the Constitutional Court (MK) in 12 copies. The application must be made with a clear description of the problem being applied for,</p> <p>The application must at least contain: the name and address of the applicant, a description of the subject on which the application is based, and the matters requested to be decided. The application must be accompanied by evidence supporting the application. The Clerk of the Constitutional Court checks the completeness of the application. Applications that do not meet the completeness (Article 29 and Article 31), the applicant is given the opportunity to complete the application no later than 7 working days since the notification of incompleteness is received. The application is not subject to court fees.</p> <p>The Panel Session, before starting the examination of the main case, the Constitutional</p>

Tax Court	State Administrative Court	Constitutional Court
<p>meeting (Dismissal Process) (PTUN) or Panel Session (MK) nor does it provide direction or guidance at the time of receipt of the appeal file or lawsuit filed, in the context of research on matters of a formal administrative nature that must be fulfilled in an appeal or lawsuit.</p>	<p>unacceptable or unfounded: in the event that: the subject matter of the lawsuit is clearly not within the jurisdiction of the court, conditions such as the identity and address of the parties, and the address of the intended court (Article 56) are not fulfilled by the plaintiff even though he has been notified or warned, the lawsuit is not based on proper reasons, what is demanded has actually been fulfilled by the TUN decision being sued, the lawsuit was filed prematurely or has expired. The decision is made in a deliberation meeting by calling both parties to listen to it.</p> <p>The decision can be challenged (in accordance with the provisions of Article 56) to the Court within a grace period of 14 days after being pronounced and examined by the Court with a brief procedure. In the event that the resistance is justified by the Court, then the decision is null and void and the subject matter of the lawsuit will be examined, decided and settled according to the usual procedure.</p>	<p>Court conducts an examination of the completeness and clarity of the application material, the Constitutional Court is obliged to provide advice to the applicant to complete and/or correct the application within 14 days.</p> <p>The Plenary Session, the Constitutional Court's trial is open to the public, except for the deliberation meeting of judges.</p>

The Constitutional Court was chosen as a comparison of research on matters of a formal administrative nature, because based on the 1945 Constitution of the Republic of Indonesia, the Constitutional Court is one of the institutions of Judicial Power. Furthermore, in the practice of proceedings carried out by a single judge or panel of judges in a tax court, a written receipt given by the officer receiving the dispute file to the appeal applicant or plaintiff will be used as evidence that the appeal applicant or plaintiff has filed an appeal or lawsuit in accordance with the time period. The period of time is calculated from the time the appellant or plaintiff receives the decision filed for appeal or lawsuit until the receipt of the appeal letter or lawsuit in the tax court. Differences in Decisions due to differences in interpretation of the timeframe for filing appeals and claims regarding the "date of delivery" and "date of receipt", God willing, will not happen again. By issuing a Circular Letter from the Head of the Tax Court regarding the procedure for interpreting the date received and the date sent in accordance with the principle of justice, the process of which is through review and discussion by all judges of the tax court. According to the author, as a judicial body that exercises judicial power in receiving dispute files, it should be led by a Registrar or a substitute clerk, so that if the appeal applicant or plaintiff encounters difficulties or requires an explanation, the officer can provide the correct explanation and assistance in accordance with the provisions stipulated in the tax court law.

The Tax Court is a special court within the state administrative court, so that in examining and deciding tax disputes, the Tax Court Judge in proving applies the tax court procedural law. The Tax Court adheres to the principle of free evidence. The panel or single judge as far as possible seek evidence in the form of letters or writings before other evidence in order to determine the material truth in accordance with what is espoused in the tax law. Therefore, the Judge seeks to determine what must be proven, the burden of proof, a fair assessment for the parties and the validity of the evidence from the facts revealed in the trial, not limited to the facts and matters presented by the parties. This is in line with the principle of proof that applies to the state administrative procedural law, which is the principle of limited free evidence. Free means that the judge is given the authority freely to determine which party in the dispute is burdened with the obligation to prove at trial. Limited means that the judge uses the evidence in the evidentiary process is limited to the evidence determined by law. The judge determines what must be proven, the burden of proof along with the assessment of the evidence and for the validity of the proof, at least 2 (two) pieces of evidence are needed. This shows that the tax court judge provides protection to the parties in fair evidence and assessment for the parties and the validity of the evidence from the facts revealed in the trial, is not limited to the facts and matters submitted by the parties.

In relation to the decision of the tax court which has been declared open to the public which is the final decision and has permanent legal force, a lawsuit cannot be submitted to the general court, state administrative court, or other judicial body, except for decisions that are "unacceptable" concerning authority/competence to adjudicate. It is unfortunate that even though the tax court has treated the disputing parties fairly and equally, because the tax court's decision cannot be appealed or cassed, the public and legal experts have concluded that the tax court's decision does not reflect the existence of legal certainty and justice, even though the tax court's decision no appeal or cassation can be taken, however, if the disputing parties are not satisfied or object to the tax court decision, the disputing parties can file extraordinary legal remedies for a review of the tax court decision to the Supreme Court. A review to the Supreme Court is an extraordinary legal effort, in addition to reducing the level of vertical re-examination, also an assessment of both aspects of the examination which includes aspects of the application of law and aspects of the facts underlying the occurrence of tax disputes will be carried out simultaneously by the Supreme Court. The decision of the tax court cannot be appealed to the Supreme Court, showing that the legal politics built in the formation of the tax court law is the legal politics of power to accelerate tax receipts into the State treasury which is managed by the Ministry of Finance.

2. Tax Court Case Management

Case management, starting from reporting, complaints, or registration of legal services to the stage of execution of decisions and corrections is a unified process starting from the occurrence of legal events in society until the realization of conditions or the restoration of justice in society. In this process, it is necessary to guarantee that:

- a. The process is appropriate in ensuring justice and legal certainty;
- b. The process is efficient, fast and does not burden parties beyond their capabilities;
- c. The process takes place according to its own legal rules, namely based on the prevailing laws and regulations from before the case itself occurred until the publication of the decision;
- d. The process takes place independently without interference or being influenced by the political and economic interests of other parties or the interests of one party to the detriment of the other party; and
- e. The process takes place in an accountable and transparent manner so that the results can be trusted by the parties and the community in general.

To expect improvements in the arrangement of the administrative system in the judiciary, these five things are very important to pay attention to. Justice seekers must be made sure and believe that the process they are going through will result in definite justice and fair certainty. The process is fast and efficient, so it is neither burdensome nor accessible to only those who can afford it. For example, if a problem can be solved in just 1 day, why wait for 1 week, 1 month, or even 1 year. The judicial process runs independently, in accordance with applicable laws and regulations, is not interfered with for political or economic interests by any party unfairly. Except for matters that must be kept secret, the whole process towards justice must be open so that it can be controlled by the community and the litigants.

To realize these six things in practice, there are several determining factors that need attention, namely:

- a. The Substance Factor of the Rule. In this case, what is most decisive is that the procedural law applied in the process, whether criminal, civil, state administration, religious courts, or constitutional courts (state administration), needs to be perfected according to the needs of the times;
- b. Human Resources Factors. Both clerks and administrative officers in general need to keep abreast of the times, so that they can work efficiently and productively. Likewise, judges, from time to time must also continuously update themselves with new knowledge about laws and regulations that develop very dynamically.
- c. Legal Information and Communication System Factors. Because today's legal world has become increasingly complex, information and communication technology (ICT) cannot but be used as well as possible in developing administrative and management systems, both judicial management and institutional management.
- d. Factors Support Facilities and Infrastructure and Budget. The workings of the judiciary must be equipped with various adequate facilities and infrastructure. Building infrastructure, court rooms, technological equipment, remuneration systems and adequate welfare facilities are indispensable to ensure the quality and productivity of judicial work.
- e. Leadership Factor. What is often overlooked is the importance of the role of leadership in the success of the agenda for improving the system and working climate in legal institutions. The Chairperson, Deputy Chairperson, Secretary and Registrar will determine the success or failure of systemic improvement efforts.

Likewise, in terms of the quality and proportionality of the field of expertise of the judges who have to examine cases, it must be prevented lest judges with different expertise have to handle cases that require special expertise. In addition, the development of judges' knowledge of the dynamics of law and legislation is also very important, so that educational activities for judges are absolutely carried out gradually and continuously. This can be seen in the courts at the appellate and cassation levels, where the composition of the number of judges is

disproportionate between judges from the general courts, religious courts, and state administrative courts with the number of cases for each court environment. As a result, the distribution of case handling tasks must be handled disproportionately. Religious judges must be given the task of handling cases outside their field of expertise (Asshiddiqie, 2011).

In addition, it is also important to consider that in court, it is better to establish a work culture that is in accordance with the nature of the work of the justice enforcement profession. For this reason, in each court, efforts should be made to create an intellectual work climate that encourages enthusiasm and enthusiasm for learning as well as a love for reading, seeking information and knowledge, and discussing intensively among judges. Thus, the quality of judges can continue to follow legal developments in theory and practice, which is actually very necessary in resolving various cases with quality in accordance with the dynamics of the development of justice needs in society.

The Tax Court as one of the judicial bodies that exercise judicial power should implement the system and procedures for the Management of Court Cases. Because tax court judges as judicial executors in addition to having expertise in the field of taxation, are also required to increase their knowledge in other legal fields other than tax law like judges as legal professions in order to achieve full proportionality, professionalism and integrity. So that in the future the proceedings at the Tax Court can be aligned with other judicial bodies in Indonesia.

III. Conclusions and Recommendations

Based on the results of research on the implementation of the Tax Court as an Independent Judicial Body in carrying out its duties and authorities to enforce law and justice, conclusions can be drawn as an answer to the problems in this research and put forward suggestions as academic recommendations which include the following:

1. The practice of resolving tax disputes in the tax court as a judicial body exercising independent judicial power is regulated in articles of procedural law starting from Article 34 to Article 93 of Law No. 14 of 2002 concerning Tax Courts. The Tax Court grants the right to the taxpayer or tax insurer to seek justice for tax disputes resulting from the issuance of a decision or determination by the competent authority in the field of taxation. The Tax Court as a special court within the state administrative court environment, the procedural law used is also specifically regulated. In examining and deciding on tax disputes, the implementation begins with the appeal applicant or plaintiff submitting an appeal or lawsuit in writing to the Tax Court which is received by the implementing employee by being given a receipt and recorded in the dispute list. Receipt of an appeal letter or lawsuit in the tax court is not carried out by the Registrar or Substitute Registrar, as judicial bodies in general are the executor of judicial power. The purpose of receiving an appeal letter or lawsuit by the Registrar or Substitute Registrar is to provide input or guidance when receiving an appeal letter or lawsuit in the context of examining matters of a formal administrative nature that must be fulfilled in an appeal letter or lawsuit, because of the possibility that the applicant for appeal or the plaintiff did not understand the process of filing an appeal or lawsuit in the tax court. The next process before the trial date is determined, the tax court sends an appeal letter or lawsuit to the appealed or defendant to request a letter of appeal or response letter with the aim that the appeal or the defendant can find out what is the dispute and his claim (*posita and petitem*). Furthermore, a copy of the description of the appeal or response letter is sent to the appeal applicant or plaintiff by the Tax Court with the aim that the Appellant or the plaintiff can provide a Rebuttal Letter, then a copy of the Rebuttal Letter by the Tax Court is sent to the appealed or defendant, so that before the day of the trial it is determined that the parties have know the situation of the case (Formal or Material) so that the parties can prepare evidence and the legal basis that becomes a dispute at the time of trial, Furthermore, in the trial the appellant or the plaintiff is not obliged to attend the trial, if there are new things that are not revealed or are not clear in the trial. the disputed file, the new matter is submitted to the appellant or plaintiff or summoned by the judge to attend. In the trial if the appealed or defendant is not present, the trial can be continued without the presence of the appealed or defendant. The decision of the tax court is a final decision and has permanent legal force that cannot be filed in a general court, state administrative court, or other judicial body, and cannot be filed for a lawsuit or cassation, but if the disputing parties are not satisfied or object to the the decision of the tax court, the disputing parties may submit a judicial review or extraordinary legal action against the decision of the Tax Court to the Supreme Court.
2. The regulation of the competence of tax court judges in examining and deciding tax disputes as judicial bodies exercising independent judicial powers is affirmed in Article 2 and Article 31 of Law Number 14 of 2002 concerning Tax Courts. However, the desired concept is not in sync with the fact that tax court judges are not required to have a law degree, so that tax court judges have different disciplines, as a result, the judges' perspective on the disputes they face are also different, because the disputes examined by the judges are different. The tax court, apart from tax law, is also inseparable from juridical disputes that require knowledge in the field of law in general in carrying out judicial power. This is one of the causes of the assessment by the disputing parties that the tax court's decision is unfair or inconsistent or incorrectly applies a valid law or does not make the Supreme Court's decision which has permanent legal force become a source

of law. In addition, the Tax Court Judges come from retired officials from the Ministry of Finance, Civil Servants (PNS) or State Civil Administration (ASN) employees whose position is as implementing officials at the Ministry of Finance such as from the Directorate General of Taxes, the Directorate General of Customs and Excise and the Secretary General of the Ministry of Finance as well as officials from the Ministry of Finance. BPKP, while the dispute that is examined and decided in the Tax Court is a dispute resulting from the Determination or Decision of the Directorate General of Taxes, the Directorate General of Customs and Excise, which is identical to the ministry of finance, therefore the people seeking justice still doubt the independence of the tax court judges. Furthermore, in the recruitment of prospective tax court judges, there is no prohibition against prospective Tax Court Judges with the status of civil servants or ASN, the requirement is only to state "have expertise in the field of taxation", which means that tax court judges must have expertise in the field of taxation but do not have to be civil servants or ASN from the Ministry of Finance. Finance or Local Government. Therefore, prospective judges with the status of civil servants or ASN originating from the Ministry of Finance and Regional Governments are expected to apply for retirement or stop being civil servants or ASN after being declared to have passed the selection to become prospective judges in the tax court, because tax disputes examined by tax court judges are disputes that arise in the tax court. in the field of taxation between the taxpayer or tax bearer and the authorized official in the field of taxation which is identical to the ministry of finance. Furthermore, the tax court judges are appointed by the President from the list of candidates proposed by the Minister of Finance after obtaining approval from the Chief Justice of the Supreme Court and the Chair and Deputy Chairmen are appointed by the President from the judges proposed by the Minister of Finance after obtaining approval from the Chief Justice of the Supreme Court. This is what makes the Tax Court get a lot of attention from legal experts and justice seekers about the independence of tax court officials, especially tax court judges because it has the potential to interfere with the independence of judges, and the minister's proposal is interpreted as the initiation of self-recruitment by the Ministry of Finance, even though the Ministry of Finance acts as the defendant or the appealed party through the Directorate General of Taxes and the Directorate General of Customs and Excise. In the settlement of tax disputes in the tax court, the judge must be free from any power and party in examining and deciding a case (independence of judiciary) so that the decision reflects a sense of justice in the community.

3. To realize the ideal Tax Court in the future, the main thing that must be addressed is the legal umbrella for the implementation of the work of the tax court itself. From the results of the research, it is known that the establishment of Law Number 14 of 2002 concerning the Tax Court whose contents or contents are not in accordance with the principles of the formation of laws and regulations. Because of its establishment, it does not carry out reforms in the field of law which is an order from the People's Consultative Assembly of the Republic of Indonesia to the Supreme Court as the executor of judicial power in the Republic of Indonesia to implement the concept of the unity of the judiciary in Indonesia or more popularly known as the one-roof policy.

Recommendations

1. In order to realize the implementation of the ideal tax dispute resolution practice in the tax court as a judicial body exercising independent judicial powers, it is recommended: the implementation of the acceptance of the file for filing an appeal or lawsuit is carried out by the clerk or substitute clerk and requiring the presence of the appeal applicant or plaintiff in the trial. as well as the decision of the tax court, other legal remedies can be taken, namely an cassation to the Supreme Court.
2. To realize the implementation of the Competence of Tax Court Judges in examining and deciding tax disputes as a judicial body exercising independent Judicial powers, it is recommended: In the selection of tax court judges recruitment, it is required to hold a law degree or have the ability in the field of law in general other than an expert in the field of taxation and master judicial procedural law and judges do not have the status of civil servants or state civil administration in the Ministry of Finance or Regional Government.
3. To realize the ideal Tax Court in the future as a judicial body that exercises independent judicial powers, with full respect for the President and the House of Representatives to make changes to Law Number 14 of 2002 concerning the Tax Court. Finally, the amendment to Law Number 14 of 2002 concerning Tax Courts is the starting point for the realization of an ideal tax court in the future.

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