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Analysis of the effectiveness of tax dispute mediation as an effort to realize tax law justice

Nathasya Nadia Fenandri

Magister Hukum, Universitas Pancasila, Jakarta, Indonesia

Abstract: The surging volume of tax disputes in Indonesia, reaching a record 390,822 cases in 2024, has heavily burdened the Tax Court and delayed legal certainty. This study examines the efficacy and normative barriers of the current adversarial litigation system and evaluates how tax mediation can be legally reconstructed to ensure substantive justice. Utilizing a normative juridical method with a statute and comparative approach, this research analyzes the current administrative review mechanism and the implementation of Ministry of Finance Regulation No. 15/2025. The results reveal that the existing litigation path positions taxpayers unfairly due to procedural complexions, high financial penalties, and institutional conflicts of interest. Furthermore, the quasi-mediation function of the newly established Quality Assurance Team remains inadequate due to structural dependence and limited material jurisdiction. This study concludes that the rigid zero-sum game approach in tax litigation undermines material justice, as evidenced by multinational transfer pricing disputes. Consequently, it is recommended that the Indonesian government urgently reform its tax laws by creating a formal legal framework for independent tax mediation, expanding the material scope of administrative reviews, and relaxing penal sanctions to foster a cooperative compliance environment.

Keywords: Alternative Dispute Resolution; Tax Litigation; Tax Mediation; Quality Assurance Team.

1. Introduction

Taxes play a very vital role in the structure of Indonesia's State Revenue and Expenditure Budget (APBN), serving as the main instrument to finance national development and realize social welfare for all people (Putri & Taun, 2023). As a mandatory contribution that is coercive under the law, tax collection in Indonesia relies on *a self-assessment system* (A. N. N. Hasanah & Susandi, 2023). This system gives full trust to taxpayers to register, calculate, pay, and report their tax obligations independently. However, in its implementation, a conflict of interest between tax authorities seeking to optimize state revenue and taxpayers seeking to minimize their financial burden is inevitable. This conflict of interest, combined with the complexity and dynamics of tax regulations, is the main trigger for tax disputes (Ramadhan & Pardede, 2025).

Data from the Directorate General of Taxes (DGT) shows a very significant increase in the number of tax disputes in recent years (N. Hasanah et al., 2025). This surge in cases provides a strong indication that the existing administrative and judicial dispute resolution system is facing severe structural challenges.

This increasing trend has been seen since 2020 which was the initial stage of observation with a total of 187,435 cases. Entering 2021, the volume of disputes increased to 212,434 cases, before finally experiencing a minor decrease in 2022 to 202,156 cases. However, in 2023 there was a very sharp spike in the burden of cases to reach 325,185 cases. This accumulation continues to soar until it sets a record high in 2024 with a total of 390,822 cases (Tax News, 2026).

Correspondence:
Name: Nathasya Nadia Fenandri
Email: nathasyanf@gmail.com

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The high quantity of disputes has a direct impact on the workload of judicial institutions (Samiri et al., 2025). The Tax Court, which is the only special judicial body in Indonesia with absolute authority to examine and decide tax disputes (Djatmiko & SH, 2013), experiencing an unusual accumulation of things. The imbalance between the number of incoming cases and the number of judges on duty triggers delays in handling cases.

The delay in resolving disputes in the Tax Court results in the length of time it takes to achieve legal certainty. The average duration of a case settlement from the stage of filing an administrative objection to the decision of the Supreme Court of Review generally takes about 36 months or even more. This condition is contrary to the principle of fast, simple, and low-cost judicial law (Abidin & Taupiqqurrahman, 2024), and causing material and immaterial losses for taxpayers and the state whose budgets are disrupted due to the delay in the realization of tax revenues (Sasanti & Indah, 2022).

Former Chairman of the Tax Court, I Gusti Ngurah Mayun Winangun, identified three main factors that cause the high level of tax disputes in Indonesia. First, there is a sharp difference in interpretation of the provisions of the law regarding the determination of the amount of tax payable between taxpayers and the fiscal authorities. Second, the limited expertise and competence of human resources in the field of taxation. Third, the lack of coordination in the implementation of tax collection and collection in the field (I Gusti Ngurah Mayun Winangun, 2014).

Normatively, the legal impasse in overcoming this problem stems from the absence of a legal umbrella that regulates the implementation of *Alternative Dispute Resolution* (ADR), especially mediation, in tax disputes in Indonesia. Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution limits the scope of its application only to civil or negotiable commercial disputes (Ariawan Gunadi et al., 2021). Meanwhile, tax disputes are classified into the realm of public law (state administrative law). On the other hand, Law Number 14 of 2002 concerning Tax Courts does not include any provisions regarding the mechanism of peace or mediation outside the court (*out-of-court settlement*).

The regulatory reconstruction of tax mediation has become an urgent need due to several critical factors: the current adversarial system places taxpayers in a procedurally weak bargaining position, the existing quasi-mediation mechanism under the Quality Assurance Team (PMK No. 15/2025) is hampered by structural independence issues and limited material jurisdiction; and the rigid "zero-sum game" approach in litigation exacerbated by high administrative fines of 30% for objections and 60% for appeals effectively stifles the pursuit of substantive justice.

Normative injustice is exacerbated by the construction of the administrative objection process in the Law on General Provisions and Tax Procedures (UU KUP). The objection examination process is carried out internally by the DGT (*internal administrative review*), thus placing the DGT in a dual position as a party to the dispute as well as a dispute resolution (*conflict of interest*). In addition, the threat of administrative sanctions in the form of a fine of 30% if an objection is rejected, and a fine of 60% if an appeal to the Tax Court is rejected as stipulated in Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), creates fear for taxpayers to fight for legal justice. An in-depth study is needed to reconstruct this legal system through tax mediation in order to realize substantive tax legal justice. Based on the description of the problem background above, the formulation of the problem in this study is: *First*, how effective and normative are the normative obstacles of the current tax dispute resolution system in Indonesia in ensuring legal justice for taxpayers? Second, how *is the* reconstruction of tax dispute mediation regulations in Indonesia as a form of *Alternative Dispute Resolution*?

2. Materials and Methods

This research uses a normative juridical method, which is a legal research method that focuses on the analysis of written positive legal norms, consistency of tax law principles, and synchronization of laws and regulations vertically and horizontally (Ariawan, 2013). The research approach applied includes a statute *approach* by examining the KUP Law, the HPP Law, the Tax Court Law, and the Minister of Finance Regulation Number 15 of 2025 concerning Tax Audit.

To develop the proposed regulatory reconstruction, this study applies critical legal analysis to evaluate inherent contradictions within existing administrative objection processes and identifies gaps in the current framework, such as the absence of formal mediation, while utilizing comparative legal analysis to support a shift from an adversarial to a cooperative compliance environment. The effectiveness of the current tax dispute resolution system is assessed through four key parameters, procedural fairness and the taxpayer's bargaining position, institutional independence to evaluate the neutrality of the DGT's *quasi-mediation* mechanisms, efficiency and legal certainty in terms of case resolution duration, and material justice outcomes, which analyze the impact of unilateral tax corrections that often overlook substantive justice.

3. Results and Discussion

3.1. Normative Barriers to the Litigation System and the Imbalance of the Position of the Parties

Indonesia's tax dispute resolution system puts taxpayers in a procedurally weak bargaining position (Ibnususilo et al., 2025). The adversarial dispute resolution process in the Tax Court often ignores material justice in favor of administrative proof formalities. Based on Article 25 of the KUP Law, taxpayers are given the right to file administrative objections to the DGT on the Underpaid Tax Determination Letter (SKPKB), Zero Tax Determination Letter (SKPN), or Overpaid Tax Determination Letter (SKPLB). However, this review process is led by the DGT's own internal objection review team, so the resulting decision is very inclined to win the fiscal position.

Financial barriers are also a very heavy stumbling block. Based on Article 27 of the KUP Law, although the taxpayer can proceed the dispute to the appeal level to the Tax Court if the objection is rejected, the taxpayer must pay off the amount of tax agreed in the final discussion of the audit results before filing an appeal. Objections and appeals filed by taxpayers also contain the risk of very burdensome administrative fines *(Rachmawati & Sariono, 2011)*.

Based on Article 25 paragraph (9) of the KUP Law jo. HPP Law, if the objection application is rejected or partially granted, the taxpayer is subject to administrative sanctions in the form of a fine of 30% of the remaining tax debt based on the objection decision (Tjahjadi et al., 2025). Meanwhile, based on Article 27 paragraph (5d) of the KUP Law jo. HPP Law, the appeal fine is set at 60% of the remaining amount of tax debt based on the Tax Court's Appeal Decision (Kartikowati, 2024). This very high fine sanction raises fear for taxpayers to seek legal protection and simplify access to justice into something that can only be reached by large-scale taxpayers.

In addition to financial factors, the fairness of tax law is also hampered by geographical factors and institutional limitations (Dianasari, 2025). In accordance with the provisions of Law Number 14 of 2002, the Tax Court is only domiciled in the capital city of the state (Jakarta) (Basri, 2021). This condition makes it difficult for taxpayers from various regions outside Java to attend the trial and give explanations directly in front of the judge, even though the handling of disputes requires very intensive physical document proof. Due to the accumulation of cases, the average time spent on one appeal decision reached 551 days *(Hendra & Arwanto, 2025)*. This delay is not only detrimental to taxpayers, but also detrimental to the state because it delays the absorption of state cash.

3.2. *Critical Juridical Study of PMK Number 15 of 2025 and the Quasi-Mediation Position of the Quality Assurance Team*

In an effort to improve the quality of tax law enforcement, the government issued Minister of Finance Regulation (PMK) Number 15 of 2025 concerning Tax Audits (Wahyudi, 2026), which officially revoked the old inspection procedure regulations, including PMK Number 17/PMK.03/2013. PMK 15/2025 introduces a restructuring of the period of taxpayer compliance audits based on the type of tax audit.

One of the normative breakthroughs in PMK 15/2025 is the procedure for discussing provisional findings of the examination before the issuance of the Notification of Audit Results (SPHP). In addition, the role of the Tax Audit Quality Assurance (QA) Team was also strengthened *(Faraka & Kurniawan, 2025)*. Based on Article 52 PMK 15/2025, taxpayers who do not agree with the findings while the tax auditor regarding the legal basis for correction can submit a written request to conduct discussions with the QA Team. This discussion with the QA Team aims to resolve differences of opinion between auditors and taxpayers internally.

The QA team acts as an internal third party that is independent of the tax audit team. The QA team has full authority to: (a) Review the legal basis for the correction submitted by the tax auditor. (b) Guiding the course of technical discussions on taxation by considering taxpayer proof documents. (c) Make conclusions and minutes of the results of the discussion that are final and binding for the tax auditor.

From the perspective of state administrative law, the QA Team mechanism under PMK 15/2025 can be classified as a form of quasi-mediation or internal administrative mediation (Abramson, 1999). The existence of the QA Team has succeeded in providing initial preventive legal protection for taxpayers to straighten out the interpretation of regulations before the Tax Determination Letter (SKP) is issued, which can automatically minimize the potential for disputes to proceed to the court stage.

However, the effectiveness of the QA Team as a mediation instrument that realizes tax law justice is still very limited. These structural limitations inherently undermine the effectiveness of dispute resolution by perpetuating a cycle of litigation because the QA Team lacks the authority to conduct a comprehensive material evaluation or make binding decisions on complex financial transaction evidence, disputes are inevitably pushed into the formal, costly, and time-consuming litigation path, thereby failing to achieve the desired goals of procedural efficiency and substantive justice. These structural obstacles include the problem of Structural Independence. The members of the QA Team are all civil servants or structural officials within the DGT. Although they are not directly involved in the examination of related cases, institutionally they still carry the interests of the DGT to secure potential state revenues, so they are not completely neutral.

Restriction of Disputed Material. Requests for discussion with the QA Team are limited to differences of opinion regarding "legal interpretations", and do not include a material evaluation of discrepancies in financial transaction evidence or transfer pricing analysis that requires in-depth comparative data testing.

Absence of External Mediator Participation. Unlike pure mediation involving certified mediators from the private sector or independent bodies outside the government, the discussion process in the QA Team is still dominated by bureaucratic apparatus, so the position is unequal (asymmetrical bargaining).

3.3. Specific Case Analysis and the Urgency of the Cooperative Approach

The urgency of implementing mediation in Indonesia can be analyzed through several case studies of real disputes that reflect the rigidity of the current litigation system.

a. Value Added Tax (VAT) Dispute PT MC PET Film Indonesia (PT MPFI)

The case of the Input Tax crediting dispute between the DGT and PT MPFI (a multinational manufacturing company) had to be resolved through a convoluted litigation channel. After going through the process of submitting an objection that was rejected, this case was appealed to the Tax Court, and finally decided by the Supreme Court at the Review level through Decision Number 3369 B/PK/PJK/2021. This dispute is dominated by differences in administrative evidence on export tax invoice documents. If there is a formal mediation channel in the early stages of the investigation, both parties can reconcile the documents cooperatively without the need to burden the judicial administration for many years (Lestari, 2025).

b. DGT Transfer Pricing Dispute vs. PT Tyrolit Vincent

In the case of PT Tyrolit Vincent, the tax authorities made a correction of business circulation based on the assumption of a special relationship in accordance with Article 18 paragraph (4) of the Income Tax Law. The DGT applies the comparable market price method by referring to the outdated guidelines KEP-01/PJ.7/1993 and SE-04/PJ.7/1993. The main problem in this dispute is the lack of bilateral coordination or confirmation with the Italian tax authorities (the country of origin of PT Tyrolit Vincent's affiliate) regarding the determination of reasonable profit margins. The absence of a mediation forum or joint negotiation between taxpayers, fiscal officers, and independent appraisers led to tax corrections being assessed unilaterally by the Tax Court and cancelled because they were not judged to be based on a valid comparison method (Rizkan Zulyadi Amri, 2018).

c. Multinational Transfer Pricing Royalty Dispute (Australian Affiliate)

A high-value tax dispute occurred when a multinational taxpayer appealed the DGT's correction to the imposition of royalty fees on its affiliates in Australia (Petruzzi & Lang, 2022). Taxpayers set a royalty rate of 25% supported by a *Transfer Pricing Study* (TP Study) report from a leading independent institution which concluded the fair range of royalties ranged from 17% to 35%. On the contrary, the DGT made a 100% correction of the royalty fee with the argument that there was no evidence of the physical existence *of Intangible Property* (IP) and unilaterally rejected the taxpayer's TP Study report.

At the appellate level, the Panel of Judges of the Tax Court conducted a reassessment and ruled that the reasonable royalty rate was 17%, a decision that was later upheld by the Supreme Court at the Review level by rejecting the DGT's PK application.

The unilateral correction by the fiscal authorities in this case reflects a *zero-sum gaming* approach that risks damaging the investment climate. Through mediation instruments, transfer pricing or royalty disputes can be discussed cooperatively using mutually agreed methodological standards, as well as dispute prevention instruments in the form of *Advance Pricing Agreements* (APA) and *Mutual Agreement Procedures* (MAP) which have proven successful in significantly reducing the potential for international tax conflicts.

4. Conclusions

Based on the results of the research, it can be concluded that the tax dispute resolution system in Indonesia is currently facing severe structural obstacles due to the extreme surge in cases and an imbalance in the taxpayer's bargaining position in the litigation route, where the quasi-mediation mechanism of the Quality Assurance Team in PMK Number 15 of 2025 is still limited by the issue of independence and material coverage. For this reason, it is recommended that the government immediately reconstruct regulations by building a formal legal umbrella for tax mediation, involving independent external mediators, expanding the competence of dispute matters in the administrative realm, and relaxing the sanction of fines under the HPP Law for taxpayers in good faith to adopt international best practices in order to realize fast, effective, and substantive tax law justice. The findings of this research have significant implications for national tax law reform, particularly in shifting the dispute resolution paradigm toward a more cooperative and equitable framework. By highlighting the limitations of the current internal Quality Assurance mechanism, this study underscores the urgent need for a legislative transition toward formal, independent, and mandatory mediation in tax disputes. Such a reform is essential to reduce the current reliance on prolonged litigation, ensure true procedural fairness, and uphold substantive justice within the Indonesian tax system.

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