

## Original Article

# Toward a One-Roof System and an Independent Tax Court: Indonesia between the United States and Germany

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## Abstract

*The research departs from a fundamental problem, the dual roof system that historically placed the Tax Court under divided supervision between the judiciary and the executive, particularly the Ministry of Finance, thereby creating structural ambiguity and potential conflicts of interest between tax collection and adjudication functions. This condition raised concerns regarding the judicial independence, accountability, and public trust in tax dispute resolution. Using a normative juridical method with statutory, conceptual, and comparative approaches, this study analyses constitutional provisions, statutory regulations, and institutional practices governing the Tax Court. The research finds that, first, the reform of Indonesia's tax adjudication system reflects a constitutional imperative to secure genuine judicial independence by ending the dual roof structure and fully integrating the Tax Court under the authority of Supreme Court, as mandated by Decision No. 26/PUU-XXI/2023 of the Constitutional Court of the Republic of Indonesia. Second, comparative insights from the United States and Germany demonstrate that effective judicial independence in tax matters requires structural separation from fiscal authorities, hierarchical judicial review, professional specialisation, and administrative as well as financial autonomy. Moreover, procedural differentiation, digital transparency, and layered oversight mechanisms are essential to prevent conflicts of interest and ensure accountability within a unified judicial framework. Third, as a policy model, Indonesia should adopt a fully integrated one-roof tax court system supported by tiered appellate review, institutional autonomy, specialised judicial training, and comprehensive digital governance to guarantee an independent, transparent, and accountable tax judiciary.*

**Keywords:** Independence; Judicial; Policy; Tax Court;

## Introduction

An independent judiciary is the fundamental prerequisite for preserving and strengthening a state founded on the rule of law. This implies that the absence of judicial independence, often the result of government or executive influence, provides a pathway for the abuse of power and the neglect of human rights by those in positions of authority. Courts are the judicial institutions that ensure the preservation of justice by enforcing laws and statutes. Judges who are committed to the principles of independence, impartiality, integrity, equality, competence, and equity are responsible for enforcing the law in the courts.<sup>1</sup> In other words, the Constitution explicitly delineates the judicial institutions that currently exist. Although some courts are not regulated by the Constitution, they must be situated within one of the judicial spheres under the Supreme Court, such as general courts, religious courts, military courts, or state administrative courts. Conversely, the status of tax courts is indeterminate under Law Number 14 of 2002 (commonly referred to as the Tax Court Law). According to Article 2 of this legislation, "a tax court is a judicial body that exercises judicial power for taxpayers seeking justice in tax disputes". Consequently, the Judicial Power Law is inconsistent, as Article 25 lists only four tribunals. The institutions permitted to exercise

<sup>1</sup> Aylin Aydın-Cakir and Ebru İter Akarçay, 'When Do Governments Attack the Judiciary? The Explanatory Power of Political Corruption', *International Review of Law and Economics*, 82 (2025), 106248 <<https://doi.org/10.1016/j.irle.2025.106248>>.



judicial authority are restricted by this provision. In other words, the Constitution explicitly establishes all judicial institutions. Consequently, the Supreme Court, which serves as the judicial authority, must oversee a unified judicial system, even if the Constitution explicitly designates certain courts.<sup>2</sup>

The Tax Court is recognised as a judicial institution within the Indonesian judicial system, in accordance with applicable law, both constitutional and juridical; however, the Tax Court's position is inadequate for the legal requirements of a judicial institution culminating in the Supreme Court and for the administrative requirements of a single system, given the dual system of supervision between the Supreme Court and the Ministry of Finance. In the neutral, objective, and legal certainty procedure that provides more substantive justice in the taxation sector, the independence of Tax Court judges is also called into question. Consequently, Article 9A of Law Number 51 of 2009, which clarifies the Second Amendment to Law Number 5 of 1986 concerning State Administrative Courts, has confirmed the existence of the Tax Court, a special court within the State Administrative Court (*Pengadilan Tata Usaha Negara* or PTUN). The judicial administration of the Tax Court in Indonesia differs considerably from the other specialised courts, particularly in the guidance it receives from the Supreme Court. The Supreme Court has established a one-roof judicial system, offering technical and non-technical judicial guidance, including administrative, organisational, and financial matters, to the judicial bodies under its jurisdiction. This provision has been confirmed in the Law on Judicial Power, thereby guaranteeing the realisation of the one-roof judicial system concept and ensuring judicial independence.<sup>3</sup>

It is problematic to place the judicial body, in this case the Ministry of Finance, under the executive branch, even if it is only subordinate in terms of organising, administrative, and financial functions. This is because it represents a legal recognition that the judicial body is subordinate to the relevant ministry. Additionally, the symbol serves as a reminder to judges of the constraints on their autonomy and freedom, specifically that they are subject to the ministry's authority when performing judicial functions. Consequently, the symbol's influence has a significant political and psychological impact on judges' autonomy and independence, as well as on the value of loyalty. Even though the activities theoretically promoted and supervised are primarily administrative, personal, and financial, the judges themselves hesitate over whether to remain loyal to the judicial power's role, function, and authority or to the policies of the relevant department. The current dualism system presents challenges and impediments to establishing the concept and program of comprehensive and integral supervision and development.<sup>4</sup>

Consequently, the Tax Court's development is not yet in accordance with the amendments to Law No. 4 of 2004 concerning Judicial Power and other Judicial Laws under the Supreme Court, which have implemented a single-roof judicial system. Further examination of the principle of judicial independence in relation to the dualism or double-roof system of development practised within the Tax Court (double-roof system) under the Ministry of Finance is necessary. This pertains to the organisation, administrative, and financial development of the Tax Court. Therefore, to preserve the Tax Court's dignity and

<sup>2</sup> Renato Solimar Alves and others, 'Enhancing Cybersecurity in the Judiciary: Integrating Additional Controls into the CIS Framework', *Computers & Security*, 157 (2025), 104584 <<https://doi.org/10.1016/j.cose.2025.104584>>.

<sup>3</sup> Jun Goto, 'Career Incentives and Judicial Independence: Evidence from the Indian Lower Judiciary', *Journal of Development Economics*, 178 (2026), 103571 <<https://doi.org/10.1016/j.jdevco.2025.103571>>.

<sup>4</sup> Madhav S. Aney, Shubhankar Dam, and Giovanni Ko, 'Jobs for Justice(s): Corruption in the Supreme Court of India', *The Journal of Law and Economics*, 64.3 (2021), 479–511 <<https://doi.org/10.1086/713728>>.



uphold its independent judicial authority, it is fitting that the Tax Court be tasked with developing a judicial system.<sup>5</sup>

The tax legal system’s vertical and horizontal misalignment results from inconsistencies between the Tax Court Law, the Law on General Provisions and Tax Procedures (*Ketentuan Umum Tata Cara Perpajakan* or KUP), the Law on Judicial Power, and other technical regulations (Regulation of the Director General of Taxes, PMK). Legal uncertainty, inconsistent application of legal principles, and procedural irregularities for taxpayers and the Directorate General of Taxes are the consequences of the absence of explicit, strict, and systematic procedural law (*lex specialis*) for the Tax Court.<sup>6</sup> This undermines the legal certainty and equity of dispute resolution. It is crucial to first analyse the effectiveness of tax dispute resolution mechanisms by examining verdict distributions from 2019 to 2024, as shown in the following table.

Table 1. Tax Dispute Resolution for 2019-2024

Tax Dispute Resolution for 2019-2024								
No	Decision Result	Year						Total
		2019	2020	2021	2022	2023	2024	
1	Revocation and Determination	240	141	232	507	339	323	1782
2	Not acceptable	621	573	1381	959	1174	684	5392
3	Reject/Rejected	2388	2507	3297	4634	4574	7932	25332
4	Adding Tax to be paid	1	6	9	1	2	3153	3172
5	Granting part of	1903	2282	2590	3004	2769	1513	14061
6	Grant all	4937	4598	5338	6374	7399	2658	31304
7	Cancel	76	21	112	82	21	24	336
	<b>Total</b>	<b>10166</b>	<b>10128</b>	<b>12959</b>	<b>15561</b>	<b>16278</b>	<b>16287</b>	<b>81379</b>

Sources: Tax Court Secretariat

Based on the table, the tax court issued 10,166 decisions in 2019, 10,128 in 2020, 12,959 in 2021, and 15,561 in 2022. Then, in 2023, the tax court ruled on 16,278 tax disputes and 16,287 in 2024. In 2023, the Constitutional Court issued Decision Number 26/PUU-XXI/2023. It can be concluded that the settlement of tax disputes following the Constitutional Court Decision has resulted in a greater number of taxpayers winning. The high volume of cases not only reflects increased taxpayer legal awareness but also indicates suboptimal dispute resolution mechanisms at the administrative level. This situation demands a more efficient, adaptive, and prevention-oriented approach to ensure that the resolution process does not rely entirely on litigation in the Tax Court. Tax authorities must promptly, cost-effectively, and effectively manage and resolve tax disputes to facilitate their efficient and equitable resolution.<sup>7</sup>

Institutional reform is an essential element of the broader transformation of Indonesia’s tax adjudication system, given the imperative need for a more efficient, structurally sound dispute-resolution mechanism and the increasing caseload. The effectiveness of tax dispute

<sup>5</sup> Beliañ Annery Herrera-Tapias and Diego Hernández Guzmán, ‘Legal Hallucinations and the Adoption of Artificial Intelligence in the Judiciary’, *Procedia Computer Science*, 257 (2025), 1184–89 <<https://doi.org/10.1016/j.procs.2025.03.158>>.

<sup>6</sup> Eileen Böhringer and Charlotte Boucher, ‘Between Impartiality and Politicization: Confidence in the Judiciary among Political Winners and Losers’, *Electoral Studies*, 87 (2024), 102714 <<https://doi.org/10.1016/j.electstud.2023.102714>>.

<sup>7</sup> Stephanie Almeida de Jesus Dias and Renato Máximo Sátiro, ‘Artificial Intelligence in the Judiciary: A Critical View’, *Futures*, 164 (2024), 103493 <<https://doi.org/10.1016/j.futures.2024.103493>>.



management is inextricably linked to the structural independence and governance model of the Tax Court, as institutional design directly affects judicial neutrality, procedural fairness, and public trust. In this context, the Constitutional Court's intervention represents a critical turning point in the process of redefining the Tax Court's institutional architecture. The transfer of authority from the Ministry of Finance to the Supreme Court regarding the organisational, financial, and administrative development of the tax court is stipulated in Constitutional Court Decision No. 26/PUU XXI/2023. The transfer procedure will be executed in stages and will not be completed after December 31, 2026. The Supreme Court will provide comprehensive guidance regarding judicial and technical matters as a consequence of this decision. In contrast to the previous judgment, which was mandated by Law Number 14 of 2002, the Supreme Court and the Ministry of Finance were responsible for supervising the tax court prior to this ruling. The Ministry of Finance was responsible for organizational, financial, and administrative matters, while the Supreme Court handled technical aspects.<sup>8</sup>

The independence of the tax court will be affected by this decision. By transferring the responsibility for technical aspects, including finance, organisation, and administration, from the Ministry of Finance to the Supreme Court, conflicts of interest within the executive branch will be resolved. Therefore, the tax tribunals will be able to independently exercise their judicial powers by implementing a single-roof system under the Supreme Court. Executive influence will not be present in the decision-making process regarding tax disputes. With the issuance of this judgment, the tax courts will be able to exercise their judicial powers without executive interference, thereby ensuring the rule of law and the enforcement of justice. The exercise of judicial power within the Indonesian judicial system will be more effective and efficient if the tax tribunals are placed under the Supreme Court's single-roof system. The independence of tax court justices in deciding tax cases is essential for taxpayers, as it is associated with justice.<sup>9</sup>

Public confidence in the tax court will erode if judges issue decisions in tax disputes without prioritising fairness. The organisation, finances, and administrative aspects of the tax court were under the supervision of the Ministry of Finance during the time when taxpayers were concerned about the possibility of receiving unjust decisions in their tax disputes. This was because the Director General of Taxes is a department of the Ministry of Finance, and taxpayers were concerned that the tax court judges would rule in favour of the Director General of Taxes. Nevertheless, taxpayers are reassured that the Supreme Court is responsible for overseeing all matters related to tax court development, as a result of Constitutional Court Decision No. 26/PUU-XXI/2023. This decision guarantees that the tax court will not be hindered in the exercise of its autonomous judicial authority by executive interests, thereby allowing it to uphold the law and ensure justice. Consequently, this decision seeks to enhance the tax court's independence.<sup>10</sup>

In contrast to the United States and Germany, both countries have successfully established an independent Tax Court (one-roof system) under the judicial authority, which is distinct from the fiscal authority. This model has been shown to enhance public trust and the effectiveness of resolving tax disputes. Conversely, tax revenues have been substantially enhanced by an effective and distinct system. This is a result of taxpayer awareness (tax willingness) to achieve shared prosperity at the national and state levels. Moreover, the Tax

<sup>8</sup> Im Halimatusa'diyah and Windy Triana, 'Sexism and Women's Access to Justice: Feminist Judging in Indonesian Islamic Judiciary', *Women's Studies International Forum*, 103 (2024), 102883 <<https://doi.org/https://doi.org/10.1016/j.wsif.2024.102883>>.

<sup>9</sup> Sara Bitencourt and others, 'Mindfulness and Trial-Based Cognitive Therapy for the Psychological Well-Being in the Judiciary: A Controlled and Randomized Study Protocol', *MethodsX*, 13 (2024), 103021 <<https://doi.org/10.1016/j.mex.2024.103021>>.

<sup>10</sup> Barbara Pernici and others, 'Improving the Analysis of the Judiciary Performance - the Use of Data Mining Techniques to Assess the Timeliness of Civil Trials', *International Journal of Public Sector Management*, 37.1 (2024), 59–76 <<https://doi.org/10.1108/IJPSM-02-2023-0058>>.



Court serves as a control institution (judicial control) or supervisory institution to ensure that legal actions by government officials authorised in the field of taxation (Fiscus) do not deviate, thereby safeguarding the public from government power and safeguarding the rights of citizens from abuse of authority or arbitrary actions by authorities, particularly in the context of taxation. Because the position of Fiscus and Taxpayers is equal and balanced in the eyes of the law, they are entitled to equal legal treatment before the law (equality before the law). Consequently, Indonesia must promptly develop strategic measures to address the legal gap and strengthen the institutional design of the Tax Court to ensure it is genuinely independent, integrated, and culturally consistent.<sup>11</sup>

Regika et al.<sup>12</sup> conducted prior research to assess the impact of Constitutional Court Decision 26/2023 on the Tax Court's institutional restructuring. The authors contended that the transfer of organisational, administrative, and financial management authority to the Supreme Court is a substantial measure in enhancing structural independence. Nevertheless, to mitigate institutional resistance, the transition period until 2026 requires rigorous supervision. Additionally, the Tax Court's equivocal position within the judicial power structure is underscored by the research conducted by Gunawan Setiyaji and Ali Abdillah.<sup>13</sup> The authors analyse the normative conflict between the Judicial Power Law and the Tax Court Law and underscore the significance of declaring the Tax Court as a specialised court under the State Administrative Court. This research suggests that legislation should be harmonised to guarantee institutional independence and legal certainty. Additionally, Gojali et al.<sup>14</sup> conducted research that examines the relationship between administrative and judicial authority in the context of tax disputes. The authors underscore the need for a clear distinction between executive and judicial functions to prevent the abuse of power. This research introduces a novel analytical perspective by assessing judicial independence through the decision-making patterns and judicial policy of Tax Court judges, in contrast to previous studies that primarily investigate normative ambiguity, institutional restructuring, or boundaries of judicial authority. This study examines whether substantive decisional independence is reflected in judicial behaviour and case outcomes, rather than restricting it to structural reform, as in Constitutional Court Decision No. 26/PUU-XXI/2023. This research contributes a novel framework for evaluating judicial independence within Indonesia's tax dispute system by integrating judicial behaviour analysis and institutional theory.<sup>15</sup>

The author is motivated to investigate the issue of organisational development and administration of the Tax Court's existence under the Ministry of Finance, as it is not in accordance with the institutional system of judicial power in the Indonesian state system, as regulated by the Constitution and related laws and regulations, as indicated by the aforementioned background description. This serves as analytical material for the legal issues under investigation. This interest stems from the adverse consequences that will follow if researchers fail to investigate the legal issues at hand. Additionally, it will negatively impact taxpayers, Indonesian citizens with constitutional rights who seek justice in the Tax Court.

<sup>11</sup> Cindarella Petz and Jürgen Pfeffer, 'Configuration to Conviction: Network Structures of Political Judiciary in the Austrian Corporate State', *Social Networks*, 66 (2021), 185–201 <<https://doi.org/10.1016/j.socnet.2021.03.001>>.

<sup>12</sup> Virna Regika and others, 'The Strengthening of Tax Court Independence in the Indonesian Judicial System', *Jurnal Cakrawala Hukum*, 15.1 (2024), 80–90 <<https://doi.org/10.26905/idjch.v15i1.14276>>.

<sup>13</sup> Gunawan Setiyaji and Ali Abdillah, 'Repositioning the Tax Court Within Indonesia's Constitutional Framework: Judicial Independence and Institutional Reform', *Lex Publica*, 11.2 (2024), 275–93 <<https://doi.org/10.58829/lp.11.2.2024.273>>.

<sup>14</sup> Akhmad Gojali and others, 'Authority of Judicial Bodies in Settling Tax Disputes in Indonesia', *International Journal of Science and Society*, 7.1 (2025), 345–65 <<https://doi.org/10.54783/ijssoc.v7i1.1382>>.

<sup>15</sup> I Gede Yudi Arsawan and Emil Maula, 'Urgensi Peralihan Pembinaan Pengadilan Pajak Di Bawah Mahkamah Agung', *Garuda: Jurnal Pendidikan Kewarganegaraan Dan Filsafat*, 1.3 (2023), 63–74 <<https://doi.org/10.59581/garuda.v1i3.1320>>.



Similarly, the justice that taxpayers who are embroiled in a dispute in the Tax Court are seeking will not be achieved, as justice is the pinnacle of the legal system.<sup>16</sup>

## Method

This research employs a normative juridical approach that focuses on the examination of legal norms and principles that regulate the independence of the judicial power in Indonesia's tax dispute resolution system.<sup>17</sup> The methodologies employed include a statute approach to analyse the provisions of Law Number 14 of 2002 concerning the Tax Court, Law Number 48 of 2009 concerning Judicial Power, the KUP Law, and Constitutional Court Decision Number 26/PUU-XXI/2023; a conceptual approach to evaluate the policies of Tax Court judges by examining theories regarding judicial independence, separation of powers, and the rule of law as a philosophical and theoretical foundation; and a comparative approach to compare the institutional design and practices of tax court independence in various countries, including the United States and Australia, in order to establish an ideal model that can be used as a benchmark for evaluating the policies of Tax Court judges in Indonesia. To evaluate the structural and substantive reflection of judicial independence in tax court policies and practices, all primary and secondary legal materials are qualitatively analysed through systematic and argumentative interpretation.<sup>18</sup>

## Results and Discussions

### *Judicial Behaviour and Policy Patterns in Tax Court Decisions*

The Indonesian Government finally issued Law No. 14 of 2002 concerning the Tax Court Law (*Undang-Undang Pengadilan Pajak* or UUPP) in 2002, after considering various factors. Article 2 (two) of this law affirms that the Tax Court (*Pengadilan Pajak* or PP) is a judicial body that exercises judicial power for taxpayers or taxpayers seeking justice for tax disputes. This law replaces the Law on the Tax Dispute Resolution Agency (*Badan Penyelesaian Sengketa Pajak* or BPSP). In the absence of a Tax Court level, taxpayers are also left with no other legal options for resolving tax disputes. The sole remedy is an extraordinary legal remedy in the form of a Judicial Review (*Peninjauan Kembali* or PK) to the Supreme Court. The Judicial Review will evaluate the case files solely and determine whether the law has been correctly applied, while the rationale for filing a Judicial Review is also restricted. If a party is dissatisfied with the Tax Court judge's decision, there is still a final option to challenge it: filing a Judicial Review with the Supreme Court, which is an extraordinary legal remedy. This extraordinary remedy is a proposal from one of the parties in a case to a higher court to overturn a decision, similar to ordinary legal remedies.<sup>19</sup>

Nevertheless, applicable legal remedies against Tax Court Judges may only be submitted to the Supreme Court for a Re-Appeal on the basis of specific, limited grounds, as outlined in Articles 91 and 92 of the Tax Court Law in conjunction with Articles 67 and 69 of the Supreme Court Law, which serve as the source of procedural law. The submission of PK by the Tax Court judge is ineligible for ordinary legal efforts (Appeal or Cassation) because the PP is at the same level as the High Court. The PP serves as a first-level court (*Quasi Court*) and the final court with final and binding legal authority. The rulings made by this court have permanent legal force, as stated in Article 33 paragraph (1) and Article 77 paragraph (1). The

<sup>16</sup> Belly Isnaeni, 'Trias Politica Dan Implikasinya Dalam Struktur Kelembagaan Negara Dalam UUD 1945 Pasca Amandemen', *Jurnal Magister Ilmu Hukum*, 6.2 (2021), 78 <<https://doi.org/10.36722/jmih.v6i2.839>>.

<sup>17</sup> Reza Octavia Kusumaningtyas and James Kalimanzila, 'The Impact of Tax Incentive on Increase Foreign Direct Investment', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 51–63 <<https://doi.org/10.53955/jsderi.v1i2.7>>.

<sup>18</sup> Tommy Valentino Sugiono and Supriyadi Supriyadi, 'Pelaksanaan Putusan Mahkamah Konstitusi No. 10/PUU-XVIII/2020 atas Mekanisme Pengusulan Ketua dan Wakil Ketua Pengadilan Pajak', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 5.2 (2021), 150–63 <<https://doi.org/10.31092/jpi.v5i2.1399>>.

<sup>19</sup> Matthieu Chemin, 'Can Judiciaries Constrain Executive Power? Evidence from Judicial Reforms', *Journal of Public Economics*, 199 (2021), 104428 <<https://doi.org/10.1016/j.jpubeco.2021.104428>>.



Tax Court, as a judicial institution in the field of taxation, should be independent and free from the influence of government power (the executive branch). Nevertheless, the Tax Court Law has not incorporated any regulations concerning this matter. The Tax Court Law has remained unchanged since its inception in 2002, and it continues to employ a dual-roof system of supervision and guidance. This system is based on Article 5 of the Tax Court Law, which establishes a dualism in which the Supreme Court provides technical judicial guidance and the Ministry of Finance provides administrative guidance. The PP is in a condition of non-independence, a characteristic and absolute requirement for a judicial institution in a state governed by the rule of law, according to several legal experts, as a result of the provisions of Article 5 above. Although Article 5 paragraph (3) of the Tax Court Law guarantees that the guidance in question must not diminish the judge's power (impartiality) in examining and deciding tax disputes, this provision still has the potential to diminish the judge's freedom in deciding cases, as a result of the dual nature of the guidance.<sup>20</sup>

The independence of the Tax Court and its judges will be affected by the dual nature of the guidance issued by the Supreme Court (the judicial branch) and the Ministry of Finance (the executive branch). This area has the potential to create regulatory contradictions and conflicts of interest, as the Ministry of Finance exercises executive functions on one hand and judicial functions on the other. In this dual position, there is a significant potential for government intervention in Tax Court decisions that favour and benefit the government, in this case, increasing tax revenues, violating the rights and interests demanded by taxpayers, with the legal basis being forced to be in the public interest for state revenue from the tax sector (*budjeteir*). However, the Supreme Court and the Ministry of Finance should be distinct institutions to perform judicial and executive functions that are mutually controlled or supervised (a checks-and-balances mechanism).<sup>21</sup>

Additionally, the Tax Court's lack of independence is further underscored by the fact that Article 5 of the Tax Court Law and Article 8 paragraphs (1) and (2) of Law Number 14 of 2002 have been used as entry points for government (executive) intervention. This is demonstrated by the Ministry of Finance's extensive involvement and over-involvement in administrative guidance across a variety of roles, such as: (a) the formation and management of the Tax Court's organisational structure and secretarial management; (c) the recruitment, appointment, and dismissal of judges, clerks, and employees, including the determination of salaries, remuneration, allowances, and protocol; (d) the establishment of the Tax Court's Honorary Council (*Majelis Kebormatan Hakim* or MKH); and (e) the management of the Tax Court's budget and financial policies.<sup>22</sup>

The Supreme Court's guidance primarily pertains to the technical aspects of the Tax Court's case management, whereas the Ministry of Finance provides guidance on finance, organisation, and administration. The Tax Court is distinguished from other courts in that the Ministry of Justice is responsible for guiding other courts, particularly in the areas of organisation, administration, and financing, whereas the Ministry of Finance is responsible for guiding the Tax Court. Consequently, the Ministry of Finance is responsible for administrative, personnel, financial, and organisational matters. The freedom of judges to

<sup>20</sup> Ahmad Ahmad and Tri Cahya Indra Permana, 'Kedudukan Pengadilan Pajak Dan Kuasa Hukum Perpajakan Pasca Putusan Mahkamah Konstitusi No. 26/Puu-Xxi/2023', *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara*, 1.1 (2023), 337–62 <<https://doi.org/10.55292/fmz32d09>>.

<sup>21</sup> Ritesh G. Menezes and others, 'Court System – India', in *Encyclopedia of Forensic and Legal Medicine* (Elsevier, 2025), pp. 756–61 <<https://doi.org/10.1016/B978-0-443-21441-7.00208-9>>.

<sup>22</sup> Stephan Litschig and Yves Zamboni, 'Judicial Presence and Rent Extraction', *Economic Development and Cultural Change*, 73.1 (2024), 87–126 <<https://doi.org/10.1086/726539>>.



investigate and resolve tax disputes must not be compromised by this guidance, as stipulated by the law.<sup>23</sup>

The Chief Justice of the Supreme Court (single roof system) is responsible for the general (judicial technical) guidance and supervision of justices, as stipulated in Article 39 of the Judiciary Law. In accordance with Presidential Decree No. 13 of 2005 on the Supreme Court Secretariat, the Supreme Court's Administrative Affairs Agency is responsible for providing administrative guidance and supervising all judicial bodies under the Supreme Court. Administrative guidance for the Tax Court is an exception, as it is administered by the Ministry of Finance (double-roof system). It is worth examining the current state of the dualistic system to determine whether it compromises judges' independence in carrying out judicial functions, as some parties argue. However, this opinion is based on errors and untruths, as it places the judicial body under the executive, specifically the relevant ministry, despite the ministry's primarily organisational, administrative, and financial responsibilities. Regardless, a system such as this symbolises legal recognition that the judicial body is under the relevant ministry. Despite the ministry's theoretical focus solely on administrative, personal, and financial matters, the symbols it contains have a significant impact on judges' autonomy, independence, and freedom. This influence also affects the value of "loyalty" among judges, as they may hesitate between being loyal to the judicial power's function and authority and to the policies of the relevant ministry (Ministry of Finance). In an effort to contribute concepts and programs for comprehensive and integrative supervision and development, the current dualistic system presents challenges and impediments.<sup>24</sup>

It is important to acknowledge that the judiciary is not only institutionally independent but also independent in the judicial process, as evidenced by the presentation of evidence, case examination, and the subsequent decision. The presence or absence of intervention from parties outside the judiciary determines the independence of the judicial process. Consequently, Article 11 paragraph (3) of Law Number 14 of 2002 stipulates that the guidance and supervision specified in Article 11 paragraphs (1) and (2) must not limit the independence of judges in the examination and resolution of tax disputes. Judges are functionally at the root of the judicial process, which is why judicial independence is essential. A judge's capacity to uphold professional freedom and moral integrity is a reliable indicator of their independence in evaluating cases. Nevertheless, it is crucial to recognise that the judicial power's independence does not entail that no party other than the judiciary may address matters concerning judges.<sup>25</sup>

Thus, judicial independence in the judicial process is not solely a technical institutional issue but rather a manifestation of the rule-of-law principle, which requires an independent judiciary unaffected by human intervention. This independence must be interpreted within a broader context as a means of guaranteeing objectivity, justice, and the preservation of citizens' rights in all dispute resolution. Consequently, the philosophical underpinnings of the rule of law, which establish the judiciary as a safeguard of individual constitutional rights and a counterbalance to state power, are inextricably linked to discussions concerning judicial independence.<sup>26</sup>

<sup>23</sup> Md. Abu Bakar Siddiq and Md. Shamim Ahmed, 'Revisiting the Constitutional and Human Rights Law Mandates for Fair Elections in Bangladesh: A Quest for Democratization', *Social Sciences & Humanities Open*, 13 (2026), 102393 <<https://doi.org/10.1016/j.ssaho.2025.102393>>.

<sup>24</sup> Vahid Molla Imeny and others, 'The Anti-Money Laundering Expectations Gap in Iran: Auditor and Judiciary Perspectives', *Journal of Money Laundering Control*, 24.4 (2021), 681–92 <<https://doi.org/10.1108/JMLC-09-2020-0105>>.

<sup>25</sup> Cheng Chi, Baozeng Ren, and Xiaoli Guo, 'Judicial Independence and Entrepreneurship – A Quasi-Natural Experiment Based on the Judicial Delocalization Reform', *Finance Research Letters*, 70 (2024), 106289 <<https://doi.org/10.1016/j.frl.2024.106289>>.

<sup>26</sup> Bernd Hayo and Stefan Voigt, 'Judicial Independence: Why Does de Facto Diverge from de Jure?', *European Journal of Political Economy*, 79 (2023), 102454 <<https://doi.org/10.1016/j.ejpoleco.2023.102454>>.



The doctrine of the rule of law has become widely accepted and commonplace in both science and practice. The rule of law is characterised by the independence of judges and the judiciary. Despite their similarities in doctrine, the rule of law, and an independent judiciary, the independence of judges is a distinct teaching that emerges from distinct backgrounds and motivations. The primary foundation of the rule of law is the principle of power limitation, which requires a neutral third party to adjudicate disputes between the government and the people (individuals). To guarantee objectivity and justice, the judiciary and the judges who make decisions must be independent or free from any form of influence or pressure from other powers, in addition to being obligated to rule in accordance with the law (unless the law is ambiguous, contrary to justice, or is a legal vacuum). An independent judiciary and independent justices are necessary to ensure fairness, impartiality, justice, and due process of law. Legal constraints are akin to a double-edged weapon. On the one hand, the law serves as a control mechanism to prevent arbitrary actions or to guarantee legal certainty. In this context, judges are obligated to make decisions in accordance with the law, specifically the law in effect before the case (the principle of *nullum delictum*). Conversely, the judge's arbitrariness can render the existing law restrictive. Judges are obligated to render a fair and accurate decision in every dispute or case that is presented to them, and they are prohibited from concealing their actions behind inadequate legal regulations.<sup>27</sup>

Accountability, or responsibility, is the guarantee of judicial independence. Accountability is essential to ensuring that judicial independence is not exploited for purposes other than the preservation of justice and the law. This parameter is essential for assessing the extent to which law enforcement practices achieve judicial independence. The judiciary will be rendered unassailable or even a judicial tyranny in the absence of this mechanism, which will ultimately undermine the principle of judicial independence. The principle of judicial independence is genuinely upheld by accountability, which safeguards judges and courts from the misuse of judicial power for personal and/or group interests.<sup>28</sup>

Consequently, in the context of the Tax Court, independence should not be interpreted solely as institutional freedom from executive intervention, but also as substantive freedom in the reasoning and policy of judicial decisions. Judges' courage to balance the state's fiscal interests with the preservation of taxpayers' rights in a proportionate and rational manner is indicative of true independence. Therefore, it is pertinent to evaluate whether the current system effectively promotes impartial and objective tax justice or whether it continues to allow implicit structural influence by examining judicial behaviour and decision-making patterns. Institutional reform is at risk of becoming a mere administrative symbol that disregards the fundamental importance of judicial independence, absent modifications to the dimensions of behaviour and decision-making.<sup>29</sup> Ultimately, the judiciary's dignity is inextricably linked to accountability and independence. Independence ensures that justices can make decisions without being influenced, while accountability ensures that this freedom is used responsibly to maintain the rule of law and justice. In this framework, the policies and decision-making patterns of Tax Court judges serve as tangible indicators of the extent to which judicial independence has been effectively achieved, not only in terms of norms but also in the practice of tax dispute resolution in Indonesia.<sup>30</sup>

### ***Comparative Tax Court Independence: The United States and Germany***

To acquire a more thorough understanding of the independence of Tax Court judges in Indonesia, it is imperative to compare it with tax court systems in other countries that have

<sup>27</sup> Hayo and Voigt.

<sup>28</sup> Hali Healy, 'Struggle for the Sands of Xolobeni – From Post-Colonial Environmental Injustice to Crisis of Democracy', *Geoforum*, 133 (2022), 128–39 <<https://doi.org/10.1016/j.geoforum.2022.05.002>>.

<sup>29</sup> Bradley P. Lindsey, Sophie McDonnell, and William J. Moser, 'Do United States Tax Court Judge Attributes Influence the Resolution of Corporate Tax Disputes?', *Journal of Accounting and Public Policy*, 42.6 (2023), 107156 <<https://doi.org/10.1016/j.jaccpubpol.2023.107156>>.

<sup>30</sup> Lindsey, McDonnell, and Moser.



established institutional structures and judicial traditions. This comparative approach is not intended to directly transpose laws; rather, it seeks to identify fundamental principles, institutional patterns, and oversight mechanisms that can serve as benchmarks for evaluating the extent to which Tax Court judges' policies in Indonesia reflect judicial independence. In this context, the United States and Germany were selected as comparison objects because they represent two distinct legal systems, common law and civil law, which both prioritise the independence of tax courts as a critical component of ensuring legal certainty and safeguarding taxpayer rights.<sup>31</sup>

The United States and Germany were chosen as comparison cases based on robust theoretical and systemic considerations. The United States is a representative of the common law tradition due to its specialised tax court model, which is relatively independent from the tax authority (IRS) and offers taxpayers direct access to litigation without the requirement to pay taxes in advance (a pre-payment forum). This model is crucial to examine because it underscores the importance of decisional independence and access to justice in defending citizens' constitutional rights against the state's fiscal power.<sup>32</sup>

In contrast, Germany is characterised by a civil law tradition that is more closely aligned with the Indonesian legal system. The Federal Fiscal Court (*Bundesfinanzhof*) provides ultimate supervision, and the Fiscal Court (*Finanzgericht*) serves as a tax court within the administrative court system. The German system is intriguing to examine due to its emphasis on legal consistency, a distinct judicial hierarchy, and a clear distinction between judicial and tax administration functions. This model serves as an illustration of the methodical establishment of structural and procedural independence within a robust rule-of-law framework. This study offers a more comprehensive analytical perspective by contrasting these two models, one rooted in the common law tradition and the other in the civil law tradition. This comparison enables the identification of universal principles of tax court independence and a critical evaluation of the extent to which the policies and decision-making patterns of Indonesian Tax Court judges are consistent with international standards for judicial independence, both structurally and substantively.<sup>33</sup>

The United States Tax Court (USTC) is a specialised federal court established by the Tax Reform Act of 1969 and regulated by Internal Revenue Code (IRC) Sections 7441-7479. It is the representative of the United States tax court system. The United States Tax Court (USTC) is a judicial institution that operates independently and is not part of the Internal Revenue Service (IRS), the executive branch agency responsible for administering and enforcing tax law in the United States. As a result, the USTC holds a central position in the one-stop-shop judicial system, where the federal judiciary is responsible for all administrative, financial, and technical aspects of the judiciary, rather than the executive or fiscal authorities. The judges of the U.S. Tax Court are appointed by the President with Senate approval, and it is an independent federal court that is distinct from the Internal Revenue Service (IRS). The decisions of the US Tax Court are final and binding and are not subject to executive intervention, in accordance with the principle of the separation of powers. The tax case system is designed to facilitate rapid, non-technical resolution of tax

<sup>31</sup> Jianjun Li, Zhouyi Wu, and Lingbing Feng, 'How Does Environmental Regulation Affect Corporate Tax Burdens? Evidence from China's Environmental Courts', *Economic Modelling*, 130 (2024), 106566 <<https://doi.org/10.1016/j.econmod.2023.106566>>.

<sup>32</sup> Fabiano de Castro Liberato Costa, Antonio Lopo Martinez, and Roberto Carlos Klann, 'Temporal Dynamics of Tax Avoidance: Impacts of Tax Audits in Brazil', *Journal of International Accounting, Auditing and Taxation*, 2026, 100760 <<https://doi.org/10.1016/j.intaccudtax.2026.100760>>.

<sup>33</sup> Lin William Cong, Vicki Wei Tang, and Tony Qingquan Zhang, 'How Transparency Shapes Tax Policy Effectiveness: Evidence from Cryptocurrency Markets', *Research Policy*, 55.1 (2026), 105363 <<https://doi.org/10.1016/j.respol.2025.105363>>.



disputes under USD 50,000, without the need for an appeal. An integrated e-filing platform can enhance transparency in the process and improve taxpayers' digital accessibility.<sup>34</sup>

The USTC's independence is confirmed by a range of institutional features, including the appointment and tenure of justices, judicial authority, and administrative autonomy. The President appoints USTC judges for 15-year terms, with Senate approval, and they are eligible for reappointment. This process guarantees that judges are not influenced by the IRS or other fiscal authorities, but rather are subject to the checks and balances of the executive and legislative branches. Furthermore, the USTC is authorised to resolve tax disputes between taxpayers and the IRS prior to payment (pre-payment litigation), which is a departure from the norm in other federal courts, which typically require payment before filing a lawsuit. Managed independently of the IRS and the Department of the Treasury, the USTC maintains its own secretariat, personnel, and budget. This underscores the importance of a unified judicial system, in which the entire judicial process, from administration to adjudication, is governed by a single judicial authority.<sup>35</sup>

The institutional design of the United States' tax court system consistently prioritises judicial independence and access to justice. In practice, the United States Tax Court (USTC) has two primary dispute resolution channels: the Small Tax Case Procedure (S-case) and the Regular Tax Case. A formal mechanism is employed to evaluate cases of high legal complexity or significant value, which involves the complete application of legal argumentation and evidentiary procedures. In contrast, the S-case route is available for disputes of comparatively low value—up to USD 50,000—and is simpler, faster, and more informal. The final decision is non-appealable. This program provides a proportional mechanism for small and medium-sized taxpayers, thereby reinforcing the principle of access to justice. Additionally, the finality of decisions guarantees legal certainty. Other practices allow for the submission of disputes of lower value (e.g., under USD 10,000) to the Small Tax Division in the taxpayer's jurisdiction, which is prioritised for examination and relatively inexpensive to pursue. This stratified structure is indicative of a rational procedural differentiation that is in accordance with the economic capabilities of the parties.<sup>36</sup>

In addition to procedural differentiation, the USTC's independence is further bolstered by a distinct institutional separation from the fiscal authority (Internal Revenue Service/IRS) across administrative, financial, and technical aspects. This configuration indicates the substantive implementation of a one-stop shop system, in which the adjudicatory function is entirely distinct from the executive tax collection function, thereby reducing the likelihood of conflicts of interest. A dimension of public accountability is provided by the mechanism of the President appointing judges with Senate approval, while lengthy terms of office offer protection against short-term political pressure. Additionally, a system of horizontal and vertical oversight is established to ensure the integrity of tax law nationwide, with an appeal mechanism to the United States Courts of Appeals and, in certain cases, to the Supreme Court, ensuring consistency of jurisprudence. The dedication to transparency, efficiency, and accountability is further bolstered by the digitisation of the DAWSON (Docket Access Within a Secure Online Network) platform, which facilitates electronic filing, document exchange, and case monitoring. This digital transformation not only enhances administrative

<sup>34</sup> David P. Steensma, 'The US Narcotic Tax Revenue Stamps', *Mayo Clinic Proceedings*, 100.7 (2025), 1262–64 <<https://doi.org/10.1016/j.mayocp.2025.05.002>>.

<sup>35</sup> Alessandro Gabrielli and Giulio Greco, 'Tax Losses and Bankruptcy Emergence: Evidence from US Firms Filing under Chapter 11', *International Journal of Accounting & Information Management*, 33.3 (2025), 513–38 <<https://doi.org/10.1108/IJAIM-05-2024-0163>>.

<sup>36</sup> Shivan Gc and others, 'Quantifying the Distribution of Family Forest Ownership Classifications for US Federal Income Tax', *Trees, Forests and People*, 19 (2025), 100756 <<https://doi.org/10.1016/j.tfp.2024.100756>>.



efficiency but also functions as an institutional instrument to mitigate the risk of external interference in the court process.<sup>37</sup>

In general, the United States paradigm is a tax justice architecture that is based on structural and procedural independence. The system is relatively autonomous, accountable, and responsive due to the absolute separation of fiscal authority and the judiciary, the differentiation of procedures based on the value of the dispute, and the integration of technology in case management. In the Indonesian context, the United States' experience provides valuable lessons, particularly in the wake of Constitutional Court Decision No. 26/PUU-XXI/2023, which mandated a transition to integration under the Supreme Court. Reforming toward a genuinely one-stop system requires the following: accelerating the digitisation of case management, strengthening administrative and financial autonomy within the judiciary, and ensuring clear institutional separation from fiscal authority. Consequently, this model is pertinent as a comparative reference for establishing a more transparent and independent Indonesian tax court dedicated to safeguarding taxpayers' rights in accordance with the principles of a contemporary rule of law.<sup>38</sup>

Meanwhile, the German tax court system is a civil law model that prioritises a unified hierarchy and high specialisation within a consistent, one-stop system. The country's institutional architecture is divided into two primary levels: the *Finanzgerichte* (Regional Tax Courts) in each *Länder*, which serve as the courts of first instance, and the *Bundesfinanzhof* (BFH) in Munich, which is the highest court of cassation in the tax sector. This tax court is the sole forum for resolving all tax disputes between taxpayers and fiscal authorities (*Finanzamt*), without the involvement of other general or administrative tribunals. This framework guarantees a uniform interpretation of tax law across the country, while also reflecting a profound level of legal expertise. The BFH is instrumental in preserving jurisprudential uniformity and establishing legal certainty, as evidenced by its July 11, 2023, ruling, which affirmed the “footstep theory” and the temporal flexibility in applying corporate tax group integration. This ruling illustrates that the courts do not merely follow the tax authorities' conservative approach; rather, they actively develop legal interpretations to ensure predictability and stability in corporate restructuring. An additional benefit of the German system is its recruitment design and judge specialisation. The recruitment of tax judges is a rigorous process that typically involves completing a two-stage *Staatsexamen* (state legal examination) and sufficient professional experience, typically after the age of 35. Judges acquire robust technical capacity to manage complex fiscal cases through specialised training in taxation, in addition to their exceptional academic and practical abilities. The involvement of *ehrenamtliche Richter* (ad hoc civilian judges) from tax, accounting, or economic backgrounds strengthens this system by integrating substantive justice dimensions and practical perspectives into the adjudication process. The quality of legal reasoning is enhanced, and the legitimacy of decisions is fortified by the combination of the professionalism of career judges and the participation of community members.<sup>39</sup>

The German tax court is entirely autonomous from the fiscal authorities and is not subject to the Ministry of Finance from an institutional standpoint. The judicial authority is responsible for organisational, administrative, and financial management, which reduces the likelihood of conflicts of interest between tax collection and adjudication. This arrangement signifies a substantive one-roof system, which entails vertical integration from the first

<sup>37</sup> Hao Tu and others, ‘Judicial Independence and Corporate Total Factor Productivity: Evidence from Provincial Court Centralization’, *Economic Analysis and Policy*, 87 (2025), 1946–61 <<https://doi.org/10.1016/j.eap.2025.07.020>>.

<sup>38</sup> Reni Ratna Anggreini, ‘Relasi Mahkamah Agung Dan Pengadilan Pajak Dalam Kekuasaan Kehakiman’, *Jurnal Lex Renaissance*, 6.3 (2021) <<https://doi.org/10.20885/JLR.vol6.iss3.art8>>.

<sup>39</sup> Drahomir Klimsa, Mario Rieger, and Robert Ullmann, ‘Unexpected Tax Refunds and Capital Market Efficiency: Evidence from the German Nuclear Fuel Tax’, *Economics Letters*, 235 (2024), 111553 <<https://doi.org/10.1016/j.econlet.2024.111553>>.



instance to the cassation level under a single, independent judicial roof. The system's efficiency, transparency, and accountability are further enhanced by modernising case administration through digitisation, including the submission of appeals, document exchange, and electronic monitoring of case status. Digitisation functions as an institutional mechanism to protect the integrity of the judicial process from external interference, in addition to serving as a managerial instrument.

The German model provides Indonesia with numerous strategic insights for tax justice reform, particularly in the aftermath of the transition from institutional development to the Supreme Court. Initially, the significance of judicial specialisation in taxation is underscored by the need for ongoing education and training to enhance professional integrity and technical proficiency. Secondly, complete institutional integration under the judiciary is necessary to prevent dualism in development and overlapping authority between the executive and judicial branches. Third, the role of jurisprudence in addressing regulatory gaps or ambiguities during the transition period is strengthened to harmonise substantive law. Consequently, the German system serves as an illustration of how integrating institutional independence, a unified hierarchy, and specialization can yield a contemporary, consistent tax court that prioritises the preservation of taxpayer rights and legal certainty within the rule of law.

This comparative synthesis of the German and United States models offers a clear normative framework for the direction of Indonesian tax justice reform, particularly in the context of institutional integration under the Supreme Court post-2026. First and foremost, both nations explicitly exclude tax tribunals from the jurisdiction of fiscal authorities, covering the administrative, financial, and technical aspects of structural independence. This division is not merely an organisational design; it is an institutional mechanism that is intended to prevent conflicts of interest between the collection and adjudication functions. Consequently, Indonesia's reform calls for the expedited revision of the Tax Court Law to ensure a complete severance of institutional ties with the tax authorities, thereby substantively realising the principle of a one-roof system.<sup>40</sup>

### ***Strengthening Judicial Independence in Indonesia's Tax Adjudication***

The Indonesian judicial system has undergone substantial changes throughout its history, including pre-independence, post-independence, and post-reform periods. The Indonesian judicial system is among the numerous issues that have become a critical reform agenda, including the erosion of judicial power. Subsequently, substantial modifications to the 1945 Constitution, which governs judicial authority, have been implemented. According to Michel Foucault, the concept of the panopticon and his theory of power relations and knowledge, the freedom of power without continuous oversight demonstrates that power is not exclusively located in formal institutions, but is also distributed through mechanisms of oversight, normalisation, and knowledge production. Foucault's analysis can be employed to emphasise the potential for the Supreme Court to integrate the Tax Court and shift power from the executive (Ministry of Finance) to the judiciary in the context of a one-stop shop system. This integration simultaneously establishes a more effective internal oversight system. The concept of the Panopticon is pertinent for elucidating the significance of transparency, accountability, and digitalisation in tax tribunals. This concept enables the systematic monitoring of all processes and actors without the necessity of continuous physical supervision. Therefore, a one-roof system can serve as a means to regulate



<sup>40</sup> Dayong Lv and others, 'Enhanced Judicial Independence and Bond Credit Spreads: Evidence from the Establishment of Circuit Courts', *Research in International Business and Finance*, 79 (2025), 103064 <<https://doi.org/10.1016/j.ribaf.2025.103064>>.



bureaucratic practices and guarantee that the judiciary is no longer a source of injustice, but rather a place where justice is created and can be observed by the public.<sup>41</sup>

The political configuration that underpins the birth of a legal product is also inextricably linked to the existence of judicial authority. Law is a political product perceived as the culmination of the interaction or struggle among existing political powers. In the context of *das sollen*, the law is required to adhere to legal provisions; however, in *das sein*, politics actively intervenes in the law. Consequently, the legal product and its enforcement will be significantly influenced by the underlying political configuration. The freedom of judges, or the independence of the judicial power, is the principle that judges are fundamentally independent in the administration of justice. This means that they are free to investigate and adjudicate cases without interference from extrajudicial powers an independent judicial power can also be defined as being free from interference and influence from parties outside the judicial power, such as bureaucrats, the Indonesian National Armed Forces (TNI), the Indonesian National Police (*Polri*), and other related parties. This ensures that the judicial process can proceed smoothly and without bias.<sup>42</sup>

The Constitutional Court of the Republic of Indonesia Decision Number 26/PUU-XXI/2023 is a constitutional milestone that fundamentally alters the institutional design of the Tax Court within the framework of judicial power. The Court determined during its deliberations that the dualism of supervision, which assigns technical judicial matters to the Supreme Court of the Republic of Indonesia and organisational, administrative, and financial matters to the Ministry of Finance of the Republic of Indonesia, raises constitutional issues. This is due to the potential for the principle of judicial independence to be obscured and for conflicts of interest to arise between tax collection and adjudication functions. In addition to technical judicial aspects, the Court underscored that the principle of the rule of law necessitates a completely independent judiciary in institutional and financial governance. Consequently, the transfer of full supervision of the Tax Court to the Supreme Court, with an implementation deadline of December 31, 2026, is regarded as a corrective measure to assure integration within a one-stop system in accordance with Article 24 of the 1945 Constitution. This decision is not merely an administrative modification; rather, it is a constitutional reconstruction of the relationship between fiscal and judicial powers in order to enhance the Tax Court's structural independence within the national judicial system.<sup>43</sup>

The organisation, administration, and finances of the Supreme Court and the Constitutional Court are under the jurisdiction of each court, as stipulated in Articles 13 of Law Number 4 of 2004 and 48 of 2009 concerning Judicial Power. This regulation also governs the Supreme Court's independence and its various levels of judicial power. Consequently, the Constitutional Court's decision No. 26 / PUU-XXI / 2023, which concerns the Tax Court's status as a one-roof system under the Supreme Court's guidance, serves as a catalyst for the judiciary to enhance the institution. The Tax Court's independence, which is a one-roof system integrated with the Supreme Court, is a prerequisite for judicial authority. This is necessary because the primary prerequisite for the execution of an objective judicial process is the independence of the institution that administers justice. This includes the independence of the judiciary as an institution (institutional independence) and the independence of judges in the performance of their duties (individual/functional independence). Consequently, it results from the unification of the roof, which has granted the judiciary the authority to oversee financial, administrative,

<sup>41</sup> Efendi Ibususilo and others, 'Legal Discovery in Indonesia's Tax Dispute Framework', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 319–50 <<https://doi.org/10.53955/jhcls.v5i1.496>>.

<sup>42</sup> Dinda Agustin Wulandari, Abdul Kadir Jaclani, and Hilaire Tegnan, 'Income Tax Regulations for Child Content Creators of TikTok Platform: Inefficacy of Indonesian Legal Frameworks', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.2 (2024), 169–91 <<https://doi.org/10.53955/jsderi.v2i2.35>>.

<sup>43</sup> Agus P. Priyono Henry DP Sinaga, 'Is Administrative Justice a Problem-Solving of Tax Dispute?', *Jurnal Tax Law and Policy*, 1.1 (2022), 54–66 <<https://doi.org/10.56282/jtlp.v1i1.63>>.



and organisational matters. Consequently, it is imperative that the organisation, administration, and finances of all judicial entities in Indonesia be managed effectively through planning, implementation, and oversight. This is done to prevent the disruption of their judicial responsibilities.<sup>44</sup>

The competence of the Tax Court within the Indonesian judicial system is regulated by Law Number 14 of 2002 concerning the Tax Court (the Tax Court Law). This law specifies the Tax Court's duty and authority to examine, determine, and resolve tax disputes, as provided in Article 31, paragraph (1), of the Tax Court Law. As per Article 32 paragraph (1) of the Tax Court Law, the Tax Court is also authorised to superintend legal counsel who provide legal assistance to disputing parties in Tax Court hearings, in addition to these responsibilities. The institutional design and oversight mechanisms that encircle these authorities, however, cannot be dissociated from their configuration. The Tax Court is in a highly strategic yet vulnerable position because it is a court of first and final instance, rendering its decisions final and binding. At that time, the absence of a multi-layered control mechanism within the double-roof system raised concerns regarding the efficacy of accountability and the potential for abuse of authority in tax dispute resolution practices. The treatment of decisions in the Tax Court, which is the first and final court (Double Roof System) in examining and deciding Tax Disputes, is to fulfil the aspirations of state financial collection, as stated in Article 33 paragraph (1) of Law Number 14 of 2002.<sup>45</sup> This is because tax disputes are related to state revenue, which is very much needed for development. Nevertheless, abuses of power are committed by “individuals” from the Ministry of Finance, including former Directorate General of Customs and Excise and their staff at the Regional Tax Office, to expedite the process of cases with high tributes. These abuses are carried out by individuals themselves or their consultant partners, harming the state and enriching the officials. The researcher suggests that the Tax Court be designated as the First Instance Court for Tax Disputes between the Fiscus and Taxpayers in accordance with the Constitutional Court's decision. This is due to the issuance of SKP/STP letters and Compulsory Letters. If the Tax Court's decision as a First Instance Court is not perceived as just, a lawsuit or appeal may be filed with the State Administrative Court (PTUN). This restriction on the Tax Court's power and authority is anticipated to promote justice by reducing the incidence of corruption and money laundering committed by individuals in the Tax Office and the Directorate General of Taxes at the Regional Office and the Pratama City/Regency Tax Office. Because there are still numerous Indonesians who are sincere and serve the country without seeking bribes, the morals of those who are not morally prepared to serve as judges are harmed, and they exploit their power and authority for the benefit of the people as taxpayers. The Tax Court Law (One Roof System) imposes a restriction on its absolute competence. Specifically, the Tax Court is limited to the examination and resolution of disputes regarding the SPT/SKP Letter Determination, which is determined by the City/Regency Tax Office and Regional Office, as well as objections from taxpayers and compulsory letters. An Objection is initiated when taxpayers decline to comply with the decision because it increases their tax debt, and a Letter of Compulsion is issued.<sup>46</sup>

The Tax Court will acknowledge appeals and cassation procedures, as is customary in general courts, since it is a first-instance court responsible for examining tax disputes. The Constitutional Court has determined that, despite the fact that cassation is not officially

<sup>44</sup> Marmiyati Marmiyati and others, 'Improving Efficiency in Indonesia's Tax Objection Process: Reducing Bureaucracy and Enhancing Access to the Tax Court', *Law Development Journal*, 7.1 (2025), 97 <<https://doi.org/10.30659/ldj.7.1.97-109>>.

<sup>45</sup> Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 <<https://doi.org/10.53955/jsderi.v1i3.15>>.

<sup>46</sup> Mulyo Basuki, 'Implications of Government Legal Subject Status as One of The Causes of Tax Disputes on Production Sharing Contracts for The Oil and Gas Industry in Indonesia', *Yustisia Jurnal Hukum*, 9.3 (2021), 399 <<https://doi.org/10.20961/yustisia.v9i3.45129>>.



recognised against Tax Court decisions as a result of the Double Roof System, appeals by the State Administrative Court (PTUN) and cassation to the Supreme Court (MA) are already being indirectly implemented as extraordinary legal remedies for tax case review (PK) under the Single Roof System. After the taxpayer has filed an appeal, the researcher's proposed formulation regarding the existence of the Tax Court allows for the filing of a cassation application initially. The taxpayer may file a cassation with the Supreme Court if they believe they have not received legal justice or if new evidence from the taxpayer regarding the tax dispute could reduce the need for Supreme Court review through the appeal decision at the PTUN.<sup>47</sup>

Given the numerous conflicting norms between the Judicial Powers Law and the Tax Court Law, the legal policy of Law No. 14 of 2002 regarding the Tax Court must be revised in accordance with the developments as outlined in Law No. 48 of 2009 concerning Judicial Power, as per the principle of legal preference, namely *Lex posteriori Derogat Legi Priori*. The legal policy of judicial power authority that the legislators have granted to the Supreme Court, as outlined in the 1945 Constitution of the Republic of Indonesia and the Law on Judicial Power and the laws and regulations that follow it in the practice of Indonesian state administration, is referred to as the "distribution of power" (distribution of power) both horizontally and vertically. This policy explicitly mandates that the judicial power be free from other powers, including the executive power in this instance. This is inextricably linked to the implementation of the principles of judicial independence and power distribution as components of the checks-and-balances system, which are designed to restrict and regulate the abuse of power by state officials. Therefore, legislators are required to revise Law No. 14 of 2002 concerning the Tax Court in light of the implications of the return of the initial legal policy.<sup>48</sup>

This law is deemed irrelevant to the development of state administration and is in direct opposition to the 1945 Constitution of the Republic of Indonesia and the Law on Judicial Power. Therefore, the phrase "Department of Finance" violates the 1945 Constitution and lacks binding legal force unless interpreted as "Supreme Court", as stated in Constitutional Court Decision Number 26/PUU-XXI/2023. This interpretation will be implemented in stages by December 31, 2026. In the second paragraph of Article 5 of Law Number 14 of 2002, which pertains to the Tax Court. This can be interpreted as an effort to establish a "One Roof System", an independent judicial system, rather than a "Dual Roof System". This decision is a clear reflection of justice and is an attempt to protect other judicial environments under the Supreme Court. The Supreme Court, as the holder of judicial power, is able to implement the principles of independence and impartiality of judicial institutions as outlined in Article 3 paragraphs (1), (2), and Article 4 of the Judicial Power Law. Technical and organisational guidance is returned to the Supreme Court.<sup>49</sup>

This was accomplished by establishing a single-roofed judicial system for the Tax Court. Of course, this should be a significant note for future legal politics, particularly in the context of the Supreme Court's grant of authority to the tax court. This authority should not be limited to technical guidance but should also include authority for organisational development in the tax court, as the Constitutional Court has granted it. The change in basic policy should be implemented no later than December 31, 2026. This demonstrates that the

<sup>47</sup> Al Fadilla Yoga Brata and Rakotoarisoa Maminiana Heritiana Sadera, 'The Implementing a Carbon Tax as a Means of Increasing Investment Value in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.2 (2023), 39–50 <<https://doi.org/10.53955/jsderi.v1i2.6>>.

<sup>48</sup> Mohammad Wangsit Supriyadi, 'Administrasi Sengketa Pajak Dan Persidangan Secara Elektronik (E-Tax Court) - Suatu Tinjauan Pustaka', *JURNAL PAJAK INDONESIA (Indonesian Tax Review)*, 8.1 (2024), 127–44 <<https://doi.org/10.31092/jpi.v8i1.2694>>.

<sup>49</sup> Robi Syafwar, Elwidarifa Marweny, and Friderika Friska Telaumbanua, 'Assessing the Role and Future of the Tax Court Post-MK Decision No. 26PUU-XXI2023', *Jurnal Ilmiah Ekotrans & Erudisi*, 4.1 (2024), 158–65 <<https://doi.org/10.69989/b4r7gt95>>.



judicial institution's ability to provide justice independently can be genuinely appreciated by justice seekers, as it is free from the influence of other branches of power.<sup>50</sup>

The United States' experience with small tax case procedures with specific thresholds and the practice of fiscal mediation in Germany demonstrate that the differentiation of dispute-resolution mechanisms can effectively reduce caseloads and expand access to justice through procedural specialisation. This scheme exemplifies a proportionality approach to procedural design, in which the intensity of the adjudication process is determined by the complexity and value of the dispute. The potential to enhance the efficiency of tax courts in Indonesia and to provide small and medium-sized taxpayers with quicker, more cost-effective resolution is present through the implementation of a comparable model. Additionally, digital harmonisation is an essential component of promoting transparency and independence. The DAWSON platform, a case automation system, is a prime example of how digitalisation not only enhances administrative efficiency but also restricts the potential for external intervention in case management. This is an example of its implementation in the United States. In the context of Indonesia's institutional transition, the electronic justice system under the Supreme Court will be strengthened as an institutional safeguard, thereby reaffirming the boundaries between the judiciary and fiscal authority. Consequently, the implementation of procedural reforms and digitalisation is insufficient in the absence of a reconstruction of the institutional supervision design that guarantees systemic independence. To ensure that the one-roof system principle is not merely administrative but genuinely guarantees the Tax Court's autonomy and accountability within the judicial system, technical reforms must be accompanied by an integrated structural oversight architecture.<sup>51</sup>

The optimal model for the Supreme Court's structural oversight of tax courts within the one-roof system requires the complete integration of all institutional, administrative, financial, and human resource aspects of the tax courts under the Supreme Court's authority. This eliminates the dualism of supervision that has resulted in conflicts of interest and undermined the independence of the tax courts. The Supreme Court Supervisory Agency has established a special directorate that is responsible for auditing the performance, discipline, and integrity of tax judges. This oversight is conducted in layers. This is substantiated by external supervision, including the Judicial Commission and a public complaints mechanism, as well as the standardisation of procedural law and jurisprudence that is consistent with the national judicial system. Transparency, accountability, and efficiency must be ensured by digitising all administrative and trial processes through an integrated e-court system, as has been successfully implemented in countries with modern tax court systems, such as the United States and Germany. Therefore, the Supreme Court's integrated, professional, and transparent structural supervision is an absolute necessity for establishing a credible, independent, and integrated tax court in Indonesia. This also signifies the conclusion of the double-roof system and the transition to a single-roof system that is consistent with the constitutional mandate and the principles of the rule of law.<sup>52</sup>

## Conclusion

The Tax Court's previous institutional design, which implemented a dual-roof system under the Supreme Court and the Ministry of Finance, has led to legal and structural issues that erodes judicial independence and public trust. The necessity of reform is further

<sup>50</sup> Indah Parmalia and Arifin Rosid, 'Analysis Of Tax Disputes On Loans From Shareholders: A Case Study On Tax Court Rulings For The Period 2018-2022', *Journal Research of Social Science, Economics, and Management*, 3.3 (2023), 712–30 <<https://doi.org/10.59141/jrssem.v3i3.565>>.

<sup>51</sup> Muhammad Ishom, 'The Loose Interpretation of Dominus Litis Principle in Marriage Dispensation for Underage Marriage in Banten', *Abkam: Jurnal Ilmu Syariah*, 23.2 (2023), 329–50 <<https://doi.org/10.15408/ajis.v23i2.29881>>.

<sup>52</sup> Faisal Labib Zulfiqar, I Gusti Ketut Agung Ulupui, and Dwi Kismayanti Respati, 'A Qualitative Analysis on Transfer Pricing Tax Audit Performance in Indonesia', *AKURASI: Jurnal Riset Akuntansi Dan Keuangan*, 5.1 (2023), 73–84 <<https://doi.org/10.36407/akurasi.v5i1.805>>.



underscored by the high volume of cases, regulatory inconsistencies, and the ambiguity of institutional positions. Independence is not merely a formal freedom from intervention from a rule-of-law perspective; it is also demonstrated in objective, impartial decision-making policies and reasoning designed to safeguard taxpayers' rights in a proportional sense. Consequently, the assessment of this independence's effectiveness depends on evaluating judicial behaviour and decision-making policies. Through an autonomous institutional design, procedural differentiation based on the merits of the dispute, and enhanced digitalisation to ensure transparency and access to justice, the United States emphasises a strict separation between fiscal and judicial authorities. Germany, on the other hand, exhibits a robust model of vertical integration within a one-roof system. This model is characterised by a distinct jurisprudential hierarchy, high judicial specialisation, and absolute separation from fiscal authorities, all of which are critical to the objectivity of adjudication. The Constitutional Court of the Republic of Indonesia's Decision Number 26/PUU-XXI/2023 represents a turning point in the cessation of the dual-roof system, which has left the Tax Court in an ambiguous position between judicial and executive powers. The full integration under the Supreme Court of the Republic of Indonesia as an implementation of the one-roof system must be interpreted as an effort to establish complete structural, administrative, and financial independence, while simultaneously bolstering the independence of individual judges in the performance of their adjudicative functions. Normative declarations are insufficient to guarantee independence; it must be established through an institutional architecture that eliminates the potential for conflicts of interest and implements multilayered controls to prevent the abuse of authority.

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