

Tax Court in Indonesia: System and Principles of Rechmatigheid and Doelmatigheid Testing

Adib Brilian Muhammad^{1*}, Mastur², Arum Widiastuti³

¹⁾ adibrilian@gmail.com

¹⁻³ Department of Law, Legal Studies, Wahid Hasyim University

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Abstract

The Tax Court is defined as a judicial institution with legal authority as per Law Number 14 of 2002. However, upon closer examination, there are two judicial systems in various legal countries: the unity of jurisdiction, which is adopted by rule of law countries, where only one set of courts exists without recognizing the existence of administrative courts (including tax courts), and the duality of jurisdiction, which recognizes the existence of administrative and state administrative courts. These two systems not only differ in the organizational structure of the courts but also in legal substance and procedural law. In Indonesia, research shows that the judicial system is unique. When viewed from the perspective of the court's organizational structure, it is closer to the unity of jurisdiction system, but in terms of court principles or dispute resolution procedures, it aligns more with the duality of jurisdiction system. Therefore, the author concludes that Indonesia's judicial system is a mixed system.

I. Introduction

Differences in legal interpretation and calculations between taxpayers and tax authorities can lead to tax disputes. In order to aid in the settling of conflicts regarding taxes, a specialized government agency was created to handle tax disputes, which is now referred to as the Tax Court.

The Tax Court serves as a forum for seeking justice and restoring rights for the parties involved in disputes. Given the importance of the role of the Tax Court, it is essential for taxpayers to understand its developments, authorities, status, scope, functions, evidentiary provisions, and the procedures for litigation in the Tax Court.

Historically, the institution responsible for resolving tax disputes in Indonesia has undergone various changes. It began in 1915 with the issuance of *Staatsblad* number 707, which established the Tax Consideration Institution (IPP) on December 11, 1915. After independence, with the enactment of regulations related to the Amendment of the *Regeling Van Het Beroup* under Law No. 5 of 1959, the Tax Consideration Institution was replaced by the Tax Consideration Assembly. Subsequently, in 1997, Law No. 17 of 1997 established the Tax Dispute Resolution Agency, but this institution only lasted for five years before Law No. 14/2002 on the In 2002, the Tax Court was created as a distinct court in the Administrative Court system. According to Article 5 of the Tax Court Law, the Ministry of Finance is responsible for the financial, administrative, and organizational management of the Tax Court, while technical oversight is the responsibility of the Supreme Court.

Indonesia's constitution, updated in the 1945 Constitution, emphasizes in Article 24 paragraph (2) that the Supreme Court, along with lower courts specializing in areas like religious, military, and administrative matters, holds the power of judicial authority (Candra et al., 2024). This explicitly states that the constitution does not permit the existence of other judicial institutions; if there are any, they must fall within the jurisdictions specified in Article 24 paragraph (2) of the 1945 Constitution.

Generally, the position of a court in a country aligns with the legal system it adheres to. Legal systems can be classified into primary legal systems, such as the Civil Law system (also referred to as the continental legal system, codified legal system, or *rechtstaat*) and the Common Law system (also referred to as the *Anglo-Saxon* legal system, precedent legal system, or rule of law). Countries that exhibit characteristics similar to those of these main legal systems can be said to share similarities with them (Cruz, 2012).

In Indonesia, the terms "state of law" are used to refer to both *rechtsstaat* and the rule of law. However, Roscoe Pound noted a distinction between the two. *Rechtsstaat* is more centered on administration, whereas the rule of law is focused on the judiciary (Pound, 1957).

The tax court in Indonesia functions as a unique branch of the administrative court system. In countries with a Common Law legal system, the unity of jurisdiction system is adopted, which does not recognize the existence of Administrative Courts that are structurally and organizationally separate from the general judiciary. Meanwhile, In the legal system of Civil Law, there is a notable separation between the standard court system and Administrative Courts (known as the dual jurisdiction system). This distinction can be observed in countries like France, the Netherlands, Germany, and Indonesia. Despite sharing the same legal system, these nations still exhibit disparities in areas such as procedures, structures, and more (Lotulung, 2013).

Understanding the various legal systems relating to the Tax Court in Indonesia is

essential in order to grasp the methods, legal principles, concepts, and terminology associated with this court, whether it operates with a unity of jurisdiction or duality of jurisdiction. This understanding is essential to determine the authority (jurisdiction) and the limits of judges' actions in assessing legal issues in tax administration, particularly concerning the principles of legality and efficiency.

As presented in the background, In order to explore the role of the tax court in Indonesia, the author will address the following questions: Does the tax court in Indonesia, operating as a specialized branch of the administrative court system, follow a unified jurisdiction or a dual jurisdiction approach, how do the differences in jurisdiction systems affect the tax court, and also, how are the principles of legality and efficiency implemented in the tax court as part of the administrative court system.

2. Research Method

The method used to address the above issues is normative legal research through approaches of legislation, concepts, history, and comparative analysis. The legislative approach involves examining the perspective of lawmakers on a particular provision. The theoretical method is founded on the perspectives and principles that have evolved within the field of legal studies (Marzuki, 2014). The historical method is applied to analyze the background of how the Tax Court was introduced in Indonesia. Conversely, the comparative method focuses on evaluating the role of the tax court in different legal frameworks, specifically the Civil Law and Common Law systems. This research is conducted through documentary study by reviewing relevant literature related to the systems of unity of jurisdiction and duality of jurisdiction, as well as laws and regulations to address the issues previously mentioned.

3. Results and Discussion

Comparison of Legal System

In Indonesia, the tax court is a special court within the Administrative Court system. Therefore, in this case, the author will discuss the differences between the legal systems of unity of jurisdiction and duality of jurisdiction, which are closely related to administrative courts, particularly regarding Administrative Law and Taxation.

The duality of jurisdiction system was introduced by France through the doctrine of *droit administratif*, which completely separates the Administrative Court from the general judiciary. The organizational separation of the Administrative Court and the general court is illustrated as follows: (Calmes-Brunet, 2016; Seerden & Stroink, 2002)

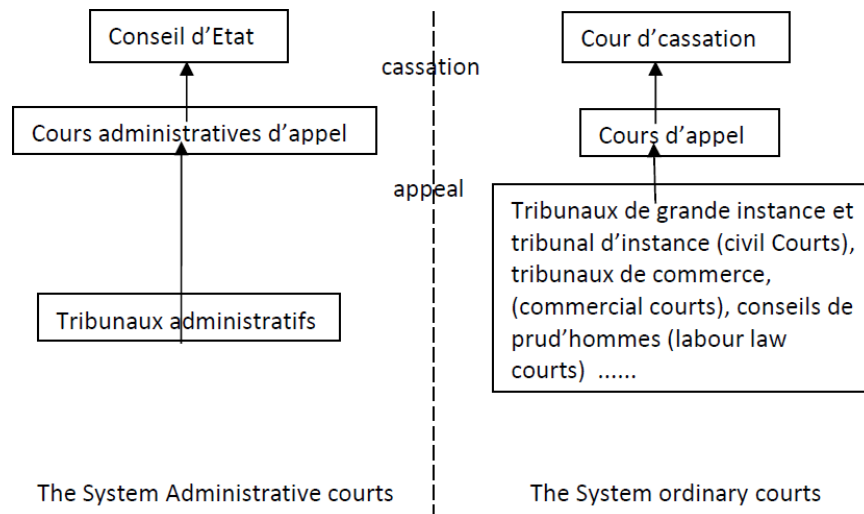


Figure 1. The organizational separation of the Administrative Court and the general court

There are two court systems in France (dual system of courts), namely the ordinary courts (*ordre judiciaire*) which culminate in the *Cour de cassation* or Supreme Court, and the administrative courts (*ordre administratif*) which culminate in the *Conseil d'État* or Council of State. *The Conseil d'État* is one of the oldest institutions in France and serves as the heart of the entire administrative court system.

The fundamental principle behind the establishment of an independent administrative court stems at least from Napoleon's thinking; he employed the separation of powers according to Montesquieu's *trias politica*. Generally, Montesquieu's separation of state powers aims to prevent administrative influence over judicial bodies, ensuring that the judiciary remains free from any external influence. Conversely, Napoleon utilized the separation of state powers to avoid judicial influence by Parliament over administrative bodies, so that the administration could operate smoothly (Muslimin, 1985).

According to A.V. Dicey, there are two main ideas of *droit administratif*:

1. That the government and every civil servant, as representatives of the nation, possess fully special rights, privileges, or prerogative rights compared to ordinary citizens, and that the boundaries of these special rights, privileges, or prerogative rights are established based on principles that differ from considerations ensuring the rights and obligations of one citizen in relation to another. According to French beliefs, the relationship between an individual and the state is not the same as the relationship between an individual and their neighbor.
2. It is important to maintain the concept of the "separation of powers" (*séparation des pouvoirs*), which aims to prevent any overlap or meddling between the branches of government, specifically the executive, legislative, and judicial branches (Nurhadi, 2014).

Assumptions like the second idea, according to A.V. Dicey, are misleading. In England, this is meant to refer to "legal independence." A.V. Dicey's criticism of *droit administratif* is its tendency to protect any civil servant guilty of an act, no matter how illegal, simply because they were following orders, and as long as that intention exists, they are exempt from the oversight or control of the general courts. Dicey's impact has extended to numerous nations that abide by the rule of law, emphasizing the concept of equal treatment under the law. The structure of the courts in England adheres to the unity of jurisdiction, which is illustrated as follows: (Nurhadi, 2014)

Court Structure in England

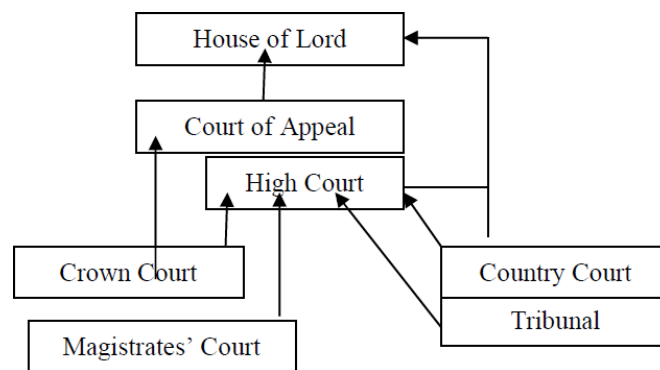


Figure 2. Court Structure in England

The court system in rule-of-law countries does not recognize the existence of Administrative Courts as separate institutions; all disputes are adjudicated in the general courts. According to Dicey, the rule of law is "the rule, supremacy, or superiority of law," which is also a characteristic of the British constitution (Nurhadi, 2014). No one is above the law; everyone, regardless of their position, must adhere to the common law that falls under the jurisdiction of the general courts.

Court Structure

The establishment of judicial systems in various civil law countries cannot be separated from the political processes and historical contexts that underlie them. This is also true for Indonesia regarding the formation of administrative courts, administrative law, and the courts within that framework, which are closely related to political processes such as the political struggle between the Government and the Parliament (DPR). The conflict has resulted in the creation of special courts and laws focused on administrative and judicial principles, as well as the political agendas of those in authority.

Initially, the Indonesian Constitution (UUD 1945) did not recognize the existence of Administrative Courts. This term was formally introduced by Law No. 19 of 1948 concerning the Organization and Authority of Judicial and Prosecutorial Bodies, which regulates Administrative Courts in Chapter III on "Administrative Court of Government," consisting of two articles, namely Article 66 and Article 67 of the law. According to Umar

Dani, the Indonesian government conducted a comparative study of civil law countries related to the administrative court system in 1975. After visiting France, it was found that the structure of the Administrative Court in that country was incompatible with Indonesia due to the implementation being carried out by the Executive rather than the judicial institutions, as mandated by the 1945 Constitution and Law No. 14 of 1970 concerning the fundamentals of judicial power, which stipulates that all courts in Indonesia are under the Supreme Court.

In the civil law legal system, several countries have specific tax court systems where tax disputes at the final level are not decided by the Supreme Court. Typically, these countries have tax courts that are separate from the Supreme Court structure, or there are highest administrative courts that adjudicate tax matters. Here are some examples:

1. France

The Highest Administrative Court (*Conseil d'État*) is the highest court for administrative disputes, including tax cases in France. Tax cases that reach the highest level are decided by the *Conseil d'État*, not by the Supreme Court, which focuses on civil and criminal cases. *The Conseil d'État* is the highest judicial institution in the fields of administration and taxation, and there is no direct relationship with the Supreme Court, which handles non-administrative matters.

2. Italia

In Italy, tax disputes are handled by tax courts known as *Commissione Tributaria*. The highest court for tax disputes is the *Consiglio di Stato*, which is the highest administrative court in Italy. The Italian Supreme Court (*Corte di Cassazione*) only deals with civil and criminal cases, not administrative cases such as tax disputes. Therefore, the highest tax decisions are outside the jurisdiction of the Italian Supreme Court.

3. Jerman

In Germany, tax disputes are handled by the Federal Tax Court (*Bundesfinanzhof*), which is the highest court for tax matters. The *Bundesfinanzhof* has specialized jurisdiction over tax issues, so the German Supreme Court (*Bundesgerichtshof*) does not interfere in tax case decisions, except in cases involving very specific legal issues. This system ensures that tax disputes are resolved in specialized tax courts without needing to reach the Supreme Court.

4. Austria

In Austria, tax disputes are handled by the Federal Administrative Court (*Bundesverwaltungsgericht*) or the Constitutional Court for matters related to taxes and administration. Final decisions on tax cases are typically made by the administrative court, without the involvement of the Supreme Court. The Supreme Court in Austria does not handle tax cases unless there are legal issues involving constitutional rights.

According to Umar Dani, in various civil law countries, the apex of the administrative court system is not the Supreme Court, but rather the Council of State (Executive) or at least an institution dedicated to this purpose, thereby highlighting the principles of *rechtsstaat* with an administrative character. In Indonesia, administrative courts culminate in the Supreme Court as a judicial institution, which strongly reflects the judicial characteristics of the rule of law. According to the author, in the case of tax courts, many civil law countries position tax courts as special courts that do not end at the Supreme Court, aiming for tax issues to be resolved quickly and efficiently within a specific administrative framework.

Court Structure in Indonesia

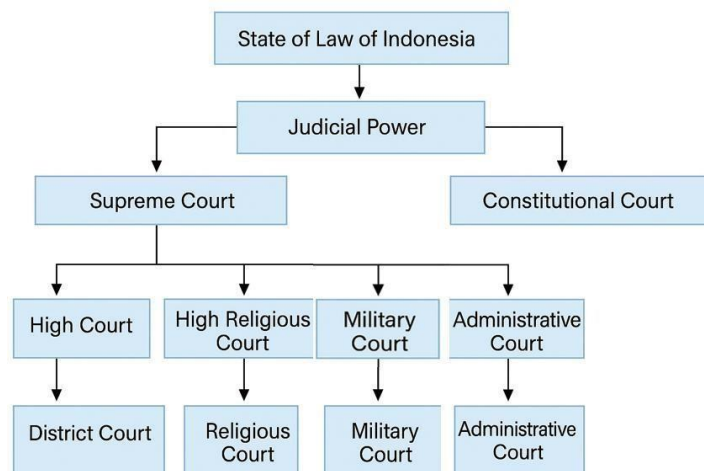


Figure 3. Court Structure in Indonesia

Tax Court

Article 24 (2) of the 1945 Constitution of Indonesia, along with Laws No. 48 of 2009 Articles 18 and 25, have established the specific shapes of judicial organizations that fall under the authority of the Supreme Court. Therefore, the establishment of judicial bodies other than the four mentioned judicial bodies is unconstitutional. However, within these four judicial institutions, special courts can be established. In line with the regulations outlined in Article 27 clause (1) of Law No. 48 of 2009, it is specified that specialized courts can solely be formed within a judicial setting supervised by the Supreme Court, as mentioned in Article 25.

Specialized courts are defined as courts with the jurisdiction to handle specific cases established within one of the judicial bodies under the Supreme Court, according to Article 1 number 8 of Law No. 48 of 2009. This provision indicates that specialized courts must operate exclusively within the framework of the four existing judicial bodies that fall under the Supreme Court's jurisdiction. The different kinds of specialized courts are described in the accompanying text of Law No. 48 of 2009, which elaborates on the definition of a 'special court' to include juvenile, commercial, human rights, corruption, industrial

relations, and fisheries courts that fall under the umbrella of the regular court system, as well as tax courts that operate within the administrative court structure.

Law Number 6 of 1983, as amended by Law Number 28 of 2007, requires the presence of a legal body to settle disputes related to taxes. According to Article 27 paragraph (1) of the KUP Law, taxpayers are allowed to challenge decisions made by the Director General of Taxes only in the tax court. Therefore, the tax court represents the implementation of procedures, processes, and systems of court activities in adjudicating tax cases and their legal consequences (Bohari, 2001). Regarding the existence of the Tax Court, Galang Asmara states that there are at least two reasons behind the necessity of the Tax Court, namely (Asmara & Soerodjo, 2006):

1. The Tax Court was established to ensure that the rule of law is maintained through the enforcement of legal matters by the judiciary. Specifically, it deals with issues related to tax laws and the responsibilities of both the government and the people in terms of tax collection.
2. The Tax Court functions as a legal protection institution, primarily serving to protect taxpayers and tax bearers from the actions of the government in collecting taxes from the people.

In 2002, following the second amendment to the 1945 Constitution of the Republic of Indonesia, the Law concerning the resolution of tax disputes was abolished and substituted with the Law on Tax Courts. This change led to the replacement of the Tax Dispute Resolution Body by the Tax Court as the official judicial authority responsible for adjudicating and settling disagreements.

According to the Tax Court law, Article 2 states that the Tax Court acts as a legal body with the power to handle cases for individuals or entities with tax responsibilities looking for legal resolution in tax-related conflicts. The article's explanatory section further clarifies that this Tax Court represents the taxation judicial entity mentioned in Law Number 6 of 1983 regarding General Provisions and Tax Procedures, which underwent multiple revisions with the final amendment being Law Number 14 of 2000, and functions as a judicial institution as referenced in Law Number 14 of 1970 concerning Fundamental Judicial Power Provisions, subsequently modified by Law Number 35 of 1999. Article 3 additionally specifies that the Tax Court is situated in the nation's capital.

The Tax Court has the power to settle disagreements related to taxes. As stated in Article 1 number 5, a tax dispute refers to disagreements in the realm of taxation between taxpayers or those responsible for taxes and authorized individuals resulting from decisions that can be challenged in the Tax Court under tax laws. This includes objections to the enforcement of tax collection as outlined in the Tax Collection Law through a formal written notice.

An appeal is defined in Article 1, number 6, as a legal option available to taxpayers or tax bearers to challenge decisions made under tax laws. On the other hand, a lawsuit, as

defined in Article 1, number 7, allows taxpayers or tax bearers to challenge tax collection procedures or disputed decisions according to tax laws.

Following the implementation of Law No. 14 of 2002 regarding Tax Courts, the General Provisions and Tax Procedures Law underwent further revision through Law No. 28 of 2007, whereas the Fundamental Judicial Power Provisions Law was subsequently modified by Law No. 4 of 2004 on Judicial Power, which was later superseded by Law No. 48 of 2009 on Judicial Power.

Despite being recognized as one of the specialized courts referenced in the explanatory notes of Article 7 of Law No. 48 of 2009 on Judicial Power, in conjunction with the explanation of Article 9A of Law No. 51 of 2009 on Administrative Courts (which defines specialization as differentiation or focus within administrative judiciary), the Tax Court's status as a specialized court remains ambiguously defined.

This ambiguity exists because Law No. 14 of 2002 on Tax Courts lacks explicit provisions establishing the Tax Court as a specialized court operating under the Supreme Court, contrary to the constitutional requirements outlined in Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which specifically delineates which courts fall under Supreme Court jurisdiction. Consequently, Law No. 14 of 2002 fails to formally classify the Tax Court as a specialized court within any of the four established judicial environments.

In the administrative court system, the Tax Court is only mentioned as a specialized court in the explanation of Article 27 paragraph (2) of Law No. 28 of 2007. Therefore, an amendment to Article 2 of Law No. 14 of 2002 is necessary to clearly define the Tax Court as a specialized court that functions within the administrative court system.

With the structure and the enactment of the Judicial Power Law, according to the author, the Tax Court is more appropriately situated within the environment of the Administrative Court because it has been explicitly stated (*expressive verbis*) to be under the environment of the Administrative Court as mentioned in the Explanation of Article 27 of Law No. 48 of 2009 in conjunction with the Explanation of Article 21 of Law No. 4 of 2004, and is also based on the similarity of the objects examined in the Tax Court with those examined in the Administrative Court.

In accordance with Law No. 14 of 2002, the Tax Court exists to resolve conflicts relating to taxes by issuing written decisions based on current tax laws. This decision is made within the framework of enforcing the Law on Tax Collection with Legal Authority. On the other hand, the purpose of lawsuits in the Administrative Court, as outlined in Article 1, point 9 of Law No. 51 of 2009, revolves around the creation of State Administrative Decisions. These decisions are official written judgments formulated by government administrative entities or officials that draw from applicable legal rules. These judgments are unique, personal, and definitive, and they lead to legal ramifications for an individual or legal entity.

Concerning these two regulations, in cases where the decision being disputed in the Tax Court is made by a designated official, that official could be the Director General of Taxes, the Director General of Customs and Excise, the Governor, the Regent/Mayor, or other officials assigned to enforce tax laws as stated in Law No. 14 of 2002, Article 1, number 1. Conversely, in cases brought before the Administrative Court, the decision being challenged is made by government officials or agencies responsible for carrying out state administrative tasks in accordance with the law, as outlined in Law No. 51 of 2009, Article 1 No. 8. Therefore, according to the Tax Court Law, an authorized official is considered equivalent to a State Administrative Official as defined in the State Administrative Court Law. This supports the argument for placing the Tax Court under the jurisdiction of the Administrative Court.

The Tax Court is considered a specialized administrative court within the realm of taxation, with its primary function being to resolve disputes related to taxes. A court is classified as an administrative court when one of the opposing parties involved in the dispute is the government (*bestuur*), which is bound by the actions of one of its officials within the limits of their authority, and that the legal issues raised are governed by public law or Administrative Law (Mustafa, 1979).

Tax disputes are disputes within the scope of Administrative Law. This opinion is based on the fact that tax law falls under public law. Even according to Brotodihardjo (2003), Tax Law is a subcategory of Administrative Law. Administrative courts can be divided into two types: pure administrative courts and non-pure administrative courts. According to the information provided, it can be inferred that the tax courts in Indonesia encompass both pure administrative courts and non-pure administrative courts, namely:

1. Pure administrative courts, such as the resolution of tax disputes (previously) by the Tax Advisory Board (1915 to 1997) and the Tax Dispute Resolution Agency (1997 to 2001), and (currently) by the Tax Court (since 2002).
2. Non-adjudicative courts like those dealing with tax assessments by the Director General of Taxes are addressed in Law No. 28 of 2007. The Tax Court, as defined in Law No. 14 of 2002, serves as a judicial entity for taxpayers seeking fairness in tax-related disputes. This emphasizes the role of the Tax Court in upholding the law and justice, in alignment with the 1945 Constitution of the Republic of Indonesia. Consequently, the Tax Court is designated as an implementer of judicial authority in tax matters.

The tendency for the Tax Court to be within the environment of Administrative Courts is due to the nature of the disputes and the nature of the parties involved. From the perspective of the subjects of the dispute, both the Tax Court and Administrative Courts bring together two conflicting subjects: the government and the citizens. In the Administrative Courts, the subjects are limited to individuals, while in the Tax Court, the citizens can be individuals or legal entities such as limited liability companies (PT),

partnerships (CV), firms, foundations, pension funds, and permanent establishments. The government occupies the position of the defendant/appellant whose decision is being contested, while individuals act as the plaintiffs/appellants. Both courts deal with specific issues related to the dispute at hand (assessments/*beschikking*) from government agencies directed at individuals, where such decisions are deemed detrimental to the citizens. Thus, the Tax Court, outlined in earlier discussions, is recognized as a separate entity within the structure of the Administrative Court system. It serves as a unique entity within the Administrative Court system due to its focus on resolving tax-related disputes, which fall under the jurisdiction of the Administrative Court (Ahmadi, 2006).

Based on the aforementioned perspectives, it can be argued that the Tax Court ought to operate as a specialized judiciary within the framework of the Administrative Court system. This position is supported by the following rationale: Initially, the disputants in taxation cases (*subjectum litis*) consist of citizens serving as plaintiffs and governmental entities as defendants. This structure mirrors the dynamics found in Administrative Court proceedings, where the plaintiff represents an individual or corporate entity that has suffered harm due to the implementation of a government administrative decree (KTUN) as outlined in Article 53 paragraph (1) of Law No. 5 of 1986 regarding Administrative Courts, while the defendant comprises the governmental authority (agency/official) responsible for issuing the administrative decree as specified in Article 1 number 12 of Law No. 51 of 2009.

Additionally, the subject matter (*objectum litis*) in Tax Court cases involves taxation decisions (*beschikking*) per Article 1 number 4 of Law No. 14 of 2002, creating tax disputes as defined in Article 1 No. 5. This mirrors Administrative Court cases, which involve government administrative decrees under Article 1 No. 9 of Law No. 51 of 2009, resulting in administrative disputes per Article 1 No. 10.

Following the ruling from the Constitutional Court on case 26/PUU-XXI/2023, it highlighted the need for the provisions stated in Article 5 paragraph (2) of Law No. 14 of 2002 concerning the Tax Court to be understood as granting the Supreme Court the duty of overseeing the organization, administration, and financial matters of the Tax Court. The deadline for full implementation of this directive is set for December 31, 2026. The Constitutional Court emphasized that the Tax Court is one of the executors of judicial power that is special within the realm of Administrative Courts. Therefore, the entire institutional structure of the Tax Court should be constructed as a one roof system under the Supreme Court to avoid various interventions that could disrupt its independence and impartiality. In this decision, there is a constitutional mandate that explicitly states: It is important for the Court to establish by ordering that no later than December 31, 2026, is deemed a fair and rational deadline for unifying the authority of the Tax Court's guidance under the Supreme Court.

The logical consequence of being an institution under the Supreme Court with a one roof system is that the Tax Court in Indonesia, besides being bound by the specific principles of

Administrative Courts (PTUN) because it is a court within that environment, is also subject to the general principles of the judiciary. This is due to its position as a pure judicial institution, which differs from other civil law countries like France.

The special principles of the Administrative Court include, first: the principle of free evidence (*Vrij bewijs*), where judges are free to impose the burden of proof on the parties deemed competent to present the necessary evidence. Second: the principle of an active judge (*actieve rechter*); and third: the ultra petita principle.

On the other hand, because the Tax Court, as a special court within the Administrative Court system, performs purely judicial functions, it is bound by judicial principles, especially the principle of legality testing (*rechtmatigheid*) and the prohibition of purposefulness testing (*doelmatigheid*). In this context, judges do not concentrate their assessment on the content or intent of decisions but rather focus on how the decision-making process occurred. This presents a significant challenge for achieving justice, as the court cannot resolve substantial issues without considering their effectiveness, drawing a clear line between the benefits of a decision and its legality (Dani, 2018). In France, since administrative courts are not part of the judicial system, they are not fully bound by judicial principles. As a result, these courts not only examine the formal validity of decisions but also assess their substantial benefits (Frydman, 2008).

As a country formed in the modern era, Indonesia's legal development is also influenced by the Common Law system. Ahmad Ali states that Indonesia's legal system is a mixed legal system, while Mahfud M.D. and Bagir Manan refer to the Indonesian legal state as having a prismatic paradigm, which is a collaboration of the *rechtstaat* and the rule of law. Muhammad Thahir Azhari concludes that Indonesia's legal state is based on the concept of the Pancasila legal state. Our country adopts a mixed legal system; therefore, in conducting assessments, one cannot rigidly apply the patterns of the unity of jurisdiction or the duality of jurisdiction systems.

Comparison of Legal System

Table 1. Comparison of Legal System

Common Law	Civil Law
1. Unity of Jurisdiction 2. Not recognizing the existence of Administrative Courts. 3. Administrative law issues are resolved in the General Courts culminating at the Supreme Court. 4. Only allowing for testing based on legality (<i>rechtmatigheid</i>).	1. Duality of jurisdiction 2. Recognizing the existence of Administrative Courts. 3. Administrative law issues are resolved in the Administrative Courts culminating at the Council of State (<i>Conseil d'État</i>). 4. Allowing for testing based on both legality (<i>rechtmatigheid</i>) and appropriateness (<i>doelmatigheid</i>).

Source: Processed by the author

In order to enhance the authority of the Tax Court in Indonesia's legal framework,

adjustments need to be made to Law Number 14 of 2002, specifically focusing on Article 2 and Article 5. The changes being made will establish the Tax Court as a distinct judicial body overseen by the Supreme Court and operating within the domain of the Administrative Court. This alteration aligns with the Constitutional Court's decision in Case Number 26/PUU-XXI/2023, which requires that the management, administration, and financial supervision of the Tax Court be shifted to the Supreme Court by December 31, 2026. Additionally, it is necessary to formulate Supreme Court Regulations (Perma) regarding procedural rules in the Tax Court to clarify the boundaries between legality review (*rechtmatigheid*) and policy appropriateness (*doelmatigheid*). The authority of the Directorate General of Taxes in canceling or reducing administrative sanctions as regulated in Article 36 of the General Tax Provisions and Procedures Law should also be subject to review by the Tax Court to create balanced judicial control. Therefore, a grand design for Tax Court reform is needed, encompassing structural strengthening, judicial independence, and technology integration to enhance transparency and accountability in tax adjudication in Indonesia.

4. Conclusion

From the above explanation, it can be understood that throughout Indonesia's institutional history, there were periods when it had the Tax Consideration Assembly and the Tax Dispute Resolution Agency. Both of these bodies, in resolving cases, did not conclude at the Supreme Court and demonstrated the characteristics of a civil law system with the duality of jurisdiction. However, The tax Court was created as a component of the administrative court system under the 1945 Constitution and the Judicial Power Law, following the enactment of the Tax Court Law. It functions within a consolidated framework and is overseen by the Supreme Court.

Therefore, the judicial system in Indonesia stands out for its distinctiveness, as it does not fully conform to either the unity or duality of jurisdiction models. The Tax Court in Indonesia, in particular, embodies elements of both systems as it leans towards the unity of jurisdiction model in terms of its function and structure. This is due to the fact that the Tax Court in Indonesia performs a purely judicial function and is organizationally under the Supreme Court. However, when viewed from the principles of dispute resolution, it aligns more with the duality of jurisdiction system, especially regarding the clear distinction between civil law and public law, as well as the special position of the government before the court.

In the Indonesian Tax Court, the differences between the unity of jurisdiction and duality of jurisdiction systems at least influence the organizational structure, methods, legal reasoning, and legal concepts. In the unity of jurisdiction system, administrative disputes are managed by a pure judiciary (Supreme Court) with all its principles, while in the duality of jurisdiction system, tax administrative disputes are resolved through institutions that are not structurally under the Supreme Court, thus not entirely bound by general judicial

doctrines. From this distinction, ideally, a country should choose one of the two judicial system models to adhere to or at least follow the legal patterns that serve as their reference, including regarding institutions, substance, and procedural law.

Considering the history and development of the Tax Court as a combination of both systems, the author sees room for the Tax Court to assess the policy (*doelmatigheid*) regarding tax disputes, particularly related to Article 36 of the General Provisions and Tax Procedures Law (UU KUP) concerning requests for cancellation and reduction of administrative sanctions, which has been under the authority of the Directorate General of Taxes to decide on cancellations or reductions of sanctions.

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