

## Legal Certainty of Filing Judicial Review in Tax Dispute Resolution After the Constitutional Court Decision No. 24/PUU-XXI/2024

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### KEYWORDS

Judicial review; legal certainty; tax disputes; Directorate General of Taxes; Constitutional Court; legal justice

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### ABSTRACT

Judicial review plays a crucial role in ensuring justice and legal certainty in tax dispute resolution, particularly in Indonesia, which adheres to the principle of a rule of law (Recht Staat). The Constitutional Court Decision No. 24/PUU-XXI/2024, however, limits the Directorate General of Taxes from filing judicial reviews, creating challenges for addressing errors in tax dispute decisions. This research uses a normative juridical approach to analyze the legal implications of this restriction, examining its impact on state revenue and legal fairness. Findings indicate that such limitations not only reduce legal certainty but also hinder the correction of judicial errors, potentially causing state financial losses. To address these issues, the study recommends a regulatory model that balances the rights of both taxpayers and tax authorities, fostering fair legal certainty and supporting tax revenue optimization for the State Budget. This regulatory refinement is vital for maintaining justice and fiscal stability in Indonesia.

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### Introduction

Indonesia as a state of law (rechtsstaat) makes law the main basis in every aspect of the life of society, nation and state, including in governance. Legislation in every material is law, and the law boils down to the 1945 Constitution as a constitution including the regulation of independent judicial power.

The 1945 Constitution of the Republic of Indonesia adheres to the notion of constitutionalism, in this case as an effort to limit state power, including by regulating the provisions that the Indonesian state is a state of law, meaning that power must be exercised according to clear legal rules and procedures. Institutional arrangements are determined by divided power and mutual supervision, balance and cooperation. The guarantee of respect, protection of human rights is the obligation and responsibility of the state. A free and impartial judiciary that protects the rights of its citizens, with the existence of the Supreme Court and the Constitutional Court.

J.C.T. Simorangkir defines a state of law as a nation that upholds the principle of legality, meaning all government actions must be conducted through, based on, and in accordance with the law. In this system, the law holds the highest authority, ensuring that the exercise of state power remains within legal boundaries. Consequently, state power is ultimately subordinate to the law, rather than the law being subject to state power.

The concept of the rule of law in Indonesia ensures that legal frameworks are established and enforced in alignment with democratic principles. The foundation of legal sovereignty stems from the sovereignty of the people, meaning that the rule of law must be developed in accordance with democratic values or popular sovereignty (*demokratische rechtstaat*). It is essential that the enforcement of the rule of law does not disregard the democratic principles enshrined in the constitution. Therefore, it must be emphasized that sovereignty resides with the people and is exercised based on constitutional provisions (*constitutional democratie*), while also affirming that Indonesia is a sovereign state governed by law in a democratic manner (*demokratische rechtstaat*) (Asshiddiqie, 2004, p. 70).

Law enforcement is understood as an effort to uphold legal norms while also preserving the values embedded within them. Law enforcers must comprehend the fundamental principles and spirit behind the legal regulations they enforce, which are closely linked to the evolving dynamics of the law-making process. Another part related to the law making process is the balance, harmony and compatibility between legal awareness instilled from above and by the authorities (legal awareness) with the spontaneous legal feelings of the people (legal feeling) (Muladi, 2002, pp. 69–70).

Gustav Radbruch in his legal theory states three elements that must be considered related to law enforcement, including legal certainty, expediency, and justice. Legal certainty relates to the guarantee of protection to the public against arbitrary actions aimed at public order, expediency is intended to create the greatest possible benefit or happiness to society, while justice means truth, impartiality, accountability and treating every human being on an equal footing before the law.

The implementation of the elements of legal certainty, usefulness, and justice in practice still raises problems so that the three elements of law enforcement are still difficult to realize. One of the polemics that has become a problem related to the implementation of legal certainty and justice is related to the Constitutional Court Decision Number 24 / PUU-XXI / 2024 which was pronounced on March 20, 2024 in connection with the testing of Article 132 paragraph (1) of Law Number 5 of 1986 concerning State Administrative Courts, with the formulation of article 132 paragraph (1) which states that against a court decision that has obtained permanent legal force, a request for judicial review can be submitted to the Supreme Court. The Constitutional Court in its ruling stated:

1. Grant the Applicant's request in part;
2. Declares that Article 132 paragraph (1) of Law Number 5 of 1986 concerning State Administrative Courts (State Gazette of the Republic of Indonesia of 1986 Number 77, Supplement to State Gazette of the Republic of Indonesia Number 3344), which states, "A petition for review may be submitted to the Supreme Court against a court decision that has obtained permanent legal force," is inconsistent with the 1945 Constitution of the Republic of Indonesia and lacks binding legal force unless interpreted as follows: "A petition for review may be submitted to the Supreme Court against

a court decision that has obtained permanent legal force, except by a State Administrative Body or Official." As a result, the full wording of Article 132 paragraph (1) of Law Number 5 of 1986 concerning State Administrative Courts (State Gazette of the Republic of Indonesia of 1986 Number 77, Supplement to State Gazette of the Republic of Indonesia Number 3344) shall read: "A petition for review may be submitted to the Supreme Court against a court decision that has obtained permanent legal force, except by a State Administrative Body or Official."

The Constitutional Court Decision Number 24/PUU-XXI/2024 in certain cases, especially in tax cases, has an impact on blocking access to justice and is very detrimental to the state. This is because in tax cases, Tax Court decisions cannot be appealed or cassated, so the only legal remedy left is Judicial Review.

The Tax Court, as a specialized judicial body under the Supreme Court, operates as an independent institution within the judiciary and adheres to judicial principles both in its institutional framework and procedural law. This establishes the Tax Court's authority to render final and binding decisions in tax disputes, reflecting substantive justice (Wahyudi, 2019, p. 81).

The final and binding nature of its decisions is reinforced in Article 77 Paragraph (1) of Law Number 14 of 2002 on the Tax Court, which states that Tax Court rulings are conclusive and carry permanent legal force. Furthermore, Article 23 of Law Number 48 of 2009 on Judicial Power allows court decisions at the Appeal level to be challenged through Cassation at the Supreme Court, unless otherwise stipulated by law. Although Tax Court decisions are rendered at the Appeal level, they are considered final and cannot be contested through ordinary legal remedies such as Cassation. However, they may be subject to extraordinary legal remedies, namely Judicial Review to the Supreme Court, as regulated by Article 77 Paragraph (3) and Article 89 of the Tax Court Law (Suharsono, 2024, p. 65).

Judicial review is fundamentally an extraordinary legal remedy against court decisions that have obtained permanent legal force (*inkracht van gewijsde*). Its primary purpose is to ensure legal justice and may be pursued by litigants in criminal, civil, and state administrative cases. Judicial review is considered an exceptional legal mechanism due to its special nature, as it allows for the reexamination and potential reconsideration of a court ruling that has already attained permanent legal status.

The decision of the Constitutional Court is final and binding, meaning no further legal remedies can be pursued once it is made (Hermawan, 2020, p. 35). This finality reflects the Court's role as the guardian and interpreter of the constitution, ensuring that laws enacted by the House of Representatives and the Government remain consistent with the constitutional mandate. When the Constitutional Court reviews a law, its decision is a constitutive declaratory one, meaning the Court's ruling can either create a new legal situation or nullify an existing one (Runtuwene, 2015, p. 8).

The Constitutional Court Decision Number 24/PUU-XXI/2024 dated March 20, 2024 shows a polemic between legal certainty and justice in the effort to file a judicial review, and also creates problems, especially for parties seeking justice, in this case the State Administrative Body or Official. These conditions sociologically create disharmony of norms that have an impact on the existence of legal uncertainty itself (Pratama, 2017, p. 36). Sudikno Mertokusumo argued that legal

certainty is a crucial requirement in law enforcement, as it serves as a safeguard against arbitrary actions. This means that individuals can expect to receive what is rightfully due to them under specific circumstances.

Regulations are created and enacted with certainty when they are clear and logical. "Clear" means that the regulations avoid ambiguity and multiple interpretations, while "logical" ensures that they form a coherent system with other norms, without conflict. Conflicts between norms caused by uncertainty in the rules may manifest as contentions, reductions, or distortions of the norms. True legal certainty exists when laws and regulations are applied in line with legal principles and norms. Legal certainty in substance and in enforcement should align, meaning that true legal certainty is not just about what is written in the law, but also about how effectively the law is implemented according to its principles and norms to uphold legal justice.

The establishment of Administrative Courts in Indonesia was intended to provide a distinct forum for resolving disputes between citizens and the government through the State Administrative Court (PTUN), rather than through general courts, as state administrative cases have unique characteristics that differ from civil cases tried in general courts. There is a public concern that granting government bodies or officials the right to seek judicial review could lead to legal uncertainty and injustice, as judicial review is sometimes used as a tactic to delay or hinder the enforcement of decisions. Therefore, there is a need to limit the authority of State Administrative bodies or officials to file for judicial review, as this is seen as contributing to legal uncertainty. The public believes that the purpose of the State Administrative Court's establishment is not only to protect individual rights but also to safeguard community rights and contribute to the realization of good governance.

State Administrative Officials who are limited in conducting judicial review, in certain cases, especially in tax cases, will be able to cause losses to the state, because it is very possible that there will be errors in calculating the amount of tax. Taxpayers are given the right to file a judicial review, but on the other hand, the body/official who issued the State Administrative Decision is not given the opportunity to file a judicial review, such a situation can lead to financial losses/state revenue. The taxation sector has an important role in government administration, this can be seen in the State Budget (APBN) submitted by the government every year, where there is an increase in the percentage of tax revenue from year to year.

The restriction on the rights of State Administrative Bodies or Officials to file a petition for judicial review has significantly altered the State Administrative Justice system. In cases of judicial review, the Constitutional Court does not establish a specific time frame for deciding on petitions regarding the review of a law. Therefore, it is important to conduct further research before making a decision on such petitions.

## **Research Methods**

### **Nature and Type of Research**

This study employs a normative juridical research method, which is a type of legal research that involves examining library materials or secondary data (Soekanto & Mahmudji, 2003, p. 13).

According to Bachtiar, normative or doctrinal research focuses on legal rules or principles, conceptualizing law as norms derived from legislation, court decisions, and expert legal doctrine (Bachtiar, 2018, p. 57).

The choice of this research method aims to gather materials in the form of theories, concepts, legal principles, and regulations related to the topic. Soerjono Soekanto noted that the scope of normative legal research includes: (Soekanto & Mahmudji, 2003, p. 14)

- a. Research into the principles of law;
- b. Research into legal systematics;
- c. Research into the degree of vertical and horizontal legal synchronization;
- d. Comparative law;
- e. Legal history.

This study will be carried out by extracting legal principles from both written and unwritten positive law (Soekanto, 1996, p. 63), to interpret laws and regulations. Additionally, this research may also be used to identify legal principles that are formulated either implicitly or explicitly.

### **Approach Method**

Normative legal research employs various approaches, including the statutory approach, conceptual approach, analytical approach, comparative approach, historical approach, philosophical approach, and case approach. These approaches can be combined, allowing the use of two or more methods as needed (Efendi & Ibrahim, 2018, p. 131). In this study, three approaches are utilized: the statutory approach, case approach, and conceptual approach.

The statutory approach, case approach, and conceptual approach can be explained as follows:

- a. **Statutory Approach**

This approach involves analyzing laws and regulations relevant to the legal issues being studied (Marzuki, 2007, p. 96).

- b. **Case Approach**

The case approach is conducted by reviewing court decisions related to the issue at hand that have attained permanent legal force (Marzuki, 2015, p. 134).

- c. **Conceptual Approach**

This approach is based on legal doctrines and perspectives that evolve within legal science. By examining these doctrines, researchers can identify legal ideas, concepts, and principles that are applicable to the issue being studied (Marzuki, 2015, p. 134).

### **Data Collection**

In this study, data and information are gathered through literature sources relevant to the research topic. The data utilized consists of secondary data, which includes primary, secondary, and tertiary legal materials, described as follows:

- a. Primary legal materials

These are binding legal materials in the form of relevant laws and regulations. Primary legal materials are considered authoritative, meaning they hold legal authority. This study relies on primary legal materials, which include:

- 1) Constitution of the Republic of Indonesia Year 1945.
- 2) Law Number 14 of 1985 concerning the Supreme Court.
- 3) Law No. 48/2009 on Judicial Power.
- 4) Law No. 14 of 2002 on the Tax Court.
- b. Secondary legal materials, secondary legal materials in this research come from books or literature regarding the judiciary in Indonesia and tax dispute resolution.
- c. Tertiary legal materials, are legal materials that serve as references or provide explanations for both primary and secondary legal materials, such as legal dictionaries, encyclopedias, and other similar sources (Marzuki, 2015, p. 63).

The process of gathering primary, secondary, and tertiary legal materials in this research is conducted through document analysis or literature review. The purpose of the literature review is to obtain secondary data by collecting and examining relevant laws and regulations, books, and scholarly articles related to the research topic.

### **Data Presentation**

The presentation of data in this research is done in a descriptive manner, where the collected information, including written documents and other relevant materials, is organized into research findings. According to Sudjana and Ibrahim, descriptive research aims to depict events or phenomena occurring in the present, with a focus on analyzing and addressing issues as they exist at the time the research is conducted.

### **Data Analysis**

The collected data and information are analyzed qualitatively to determine solutions to the identified issues. H.B. Sutopo describes qualitative analysis as the process of systematically organizing data, followed by normative qualitative analysis to clarify the issues being examined. After analysis, the findings are presented descriptively by explaining and illustrating aspects relevant to the research problem. Finally, conclusions are drawn based on the analysis, providing answers to the research questions.

### **Results and Discussion**

#### **Legal Certainty on the Submission of Judicial Review by the Directorate General of Taxes After the Constitutional Court Decision Number 24/PUU-XXI/2024 Dated March 20, 2024**

Indonesia is a state based on the rule of law, as stated in Article 1 Paragraph 3 of the 1945 Constitution. This implies that all state administrators, including policy executors and policymakers, must uphold the values of Pancasila and the 1945 Constitution. The concept of the rule of law in Indonesia is inherently tied to Pancasila, which serves as the foundation of the state, the source of all legal principles, and the guiding spirit of the nation (Swantoro, 2017, p. 205).



An independent and impartial judiciary is a fundamental characteristic of the rule of law. Mukti Arto, in his book *Ideal Conception of the Supreme Court*, highlights three key reasons why judicial independence is crucial: the judiciary serves as the guardian of the constitution, an independent judiciary is a vital element of a democratic state, and the judiciary forms the foundation of the rule of law (Arto, 2011, p. 20). The principle of judicial independence is enshrined in Article 24 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Article 1 of Law Number 4 of 2004 on Judicial Power.

Article 10 Paragraph (1) of the Judicial Power Act mandates that courts cannot refuse to examine, adjudicate, and decide cases on the grounds of the absence or ambiguity of legal provisions. Instead, courts are obligated to hear and rule on such cases. Judicial review is an extraordinary legal remedy that does not suspend the execution of a decision. As part of the judicial procedural law system, judicial review serves to safeguard human rights while maintaining legal certainty, which is a fundamental principle of the rule of law (Chazawi, 2011, p. 109).

Mahfud MD expressed his opinion that the demands of an increasingly complex and modern life force every individual in society to want or not, like it or not, want certainty, especially legal certainty, because so that each individual can determine their rights and obligations clearly and structurally (Mahfud MD, 2006, p. 63). Legal certainty refers to the existence of general rules that enable individuals to understand which actions are permitted and which are prohibited. It also ensures protection for individuals against government arbitrariness, as these established rules allow individuals to anticipate the extent of state authority over them.

Legal certainty in society is essential for achieving order and justice. When there is legal uncertainty, it can result in societal disorder, potentially leading to chaos. The law, as a set of general rules, serves as a guide for individuals in their interactions, both with each other and with society. These rules establish boundaries for behavior, and through their existence and enforcement, legal certainty is created (Marzuki, 2008, p. 158).

The settlement of tax disputes has been attempted to be carried out as effectively as possible, including the absence of cassation legal remedies, but directly given an extraordinary legal remedy, namely judicial review, this can reduce the level of vertical re-examination, assessment of aspects of the application of law and facts that form the basis of tax disputes that are examined at one time and directly by the Supreme Court. Legal efforts to resolve tax disputes are increasing, especially at the stage of judicial review, this proves the increasing public awareness of tax law and the increasing efforts to seek legal certainty in taxation.

Data on the number of cases resolved by the Supreme Court in the State Administrative Chamber shows that 80% of the cases submitted to the State Administrative Chamber are tax judicial review cases. The number of tax dispute judicial review cases received in 2023 increased by 13.67%, namely 6,093 cases, when compared to 2022.

Internal data from the Directorate General of Taxes reveals that the number of tax disputes filed for judicial review was 1,929 in 2020, 2,743 in 2021, 2,038 in 2022, 2,813 in 2023, and 2,479 decisions by October 2024. This data indicates a growing trend in the Directorate General of Taxes' use of judicial review as a means of seeking legal certainty.

Judicial review as a final legal remedy in resolving tax disputes has seen an increase, driven by a rise in tax conflicts between taxpayers and the Tax Authority, specifically the Directorate General of Taxes. These disputes often stem from disagreements over tax determinations, which are caused by various factors such as:

1. Differences in understanding in interpreting the provisions of tax laws and regulations.
2. Limited human resources (Fiskus officers) in understanding the business pattern and accounting bookkeeping system of taxpayers.
3. Limited human resources (Fiskus officers) in understanding the terms of business activities and accounts in bookkeeping due to less open taxpayer communication.
4. Taxpayers' lack of ability to interpret tax regulations.
5. Taxpayers' lack of ability to distinguish between fiscal financial statements and bookkeeping.
6. Differing views on the admission of supporting evidence.

Judicial review is an exceptional remedy against a court decision that has become final and binding (*inkracht van gewijsde*), and it can be requested by interested parties, including taxpayers and the Directorate General of Taxes, based on specific grounds outlined in the Tax Court Law and the Supreme Court Law. The decisions eligible for judicial review are those that contain legal flaws, as they do not align with procedural law or the relevant tax laws and regulations.

Judicial review, as an exceptional legal remedy, is granted by lawmakers to offer a final opportunity for parties dissatisfied with the Tax Court's decision to seek legal certainty and more substantive justice. The Directorate General of Taxes, as a State Administrative Officer, may file for judicial review of a court decision that has become final and binding, as outlined in Article 132 paragraph (1) of the State Administrative Justice Law.

In its decision No. 24/PUU-XXII/2024, the Constitutional Court essentially stated that a request for judicial review may be submitted to the Supreme Court against a court decision that has become final, except for requests made by a State Administrative Agency or Official. This decision pertains to the review of Article 132 paragraph (1) of the State Administrative Court Law. However, the legal remedy of judicial review in tax disputes is also governed by Article 77 paragraph (3) of the Tax Court Law and Article 66 of the Supreme Court Law. These provisions demonstrate that the filing of a judicial review by the Directorate General of Taxes as a State Administrative Officer is in accordance with the legal framework and does not violate the law.

The Petitioner's argument in the judicial review of Article 132 paragraph (1) of the State Administrative Court Law to the Constitutional Court, which asserts that not limiting the authority of State Administrative Bodies and/or Officials to file for judicial review, is detrimental to the Petitioner's constitutional right to obtain fair legal certainty, is not relevant in the context of tax disputes. Legal efforts to resolve tax disputes are handled through the Tax Court, which serves as the first and final court to examine and decide on such disputes, as stated in Article 33 paragraph (1) of the Tax Court Law. As the first and final instance court, the Tax Court's decisions are final and binding, with permanent legal force, as outlined in Article 77 paragraph (1) of the Tax Court



Law. However, the parties involved in the dispute may still seek a judicial review of the Tax Court's decision by submitting it to the Supreme Court.

The Tax Court is a judicial institution with a structure that differs from traditional judicial bodies, as it does not include appeals or cassation procedures. In tax disputes, the appeal serves as both the first and final legal remedy, and the decision made at the appeal level is considered final, meaning it immediately carries permanent legal force once rendered. The process of resolving tax disputes through the Tax Court is generally quicker compared to other types of legal disputes.

Article 77 paragraph (3) of the Tax Court Law explicitly states that both parties in a dispute, not only the taxpayer but also the Tax Authority, represented by the Directorate General of Taxes, may file a Judicial Review of the Tax Court's decision to the Supreme Court. Therefore, regarding the interpretation of Article 132 paragraph (1) of the State Administrative Court Law, it would be inappropriate to limit the right of a State Administrative Body and/or Official from filing a Judicial Review.

Restricting the Directorate General of Taxes, as a State Administrative Official, from filing a Judicial Review creates a barrier to accessing legal certainty and justice. This limitation arises because, if there is an error in the appeal decision, there is no mechanism for correction from a higher court, as the appeal decision is considered the final legal remedy.

Article 27 paragraph (5) of the Law on General Provisions and Tax Procedures states that if a taxpayer or the Director General of Taxes requests a legal remedy for reconsideration, the implementation of the Tax Court's decision will not be suspended or halted. Additionally, Article 27B of the same law stipulates that the taxpayer will receive an interest reward if their objection, appeal, or reconsideration request is partially or fully granted, leading to an overpayment of taxes.

The request for judicial review by a State Administrative Body or Official in a tax dispute does not indicate that the body or official, who lost at the appeal or cassation level, has undermined the role of the State Administrative Court as a tool for legal protection for the public. The Directorate General of Taxes has a legal obligation (*wettelijke verplichtingen*) to promptly execute or follow up on the Tax Court's final decision, which cannot be suspended or halted. Moreover, taxpayers may still be entitled to compensation in the form of interest. The purpose of filing a judicial review in a tax dispute is to ensure legal certainty, justice, and to enable the Directorate General of Taxes to fulfill its responsibility of maintaining tax revenue, without delaying the taxpayer's rights, which must be implemented based on the Tax Court's ruling.

The Tax Court is the sole judicial institution in tax disputes, designed to ensure justice in tax collection as part of efforts to enhance tax compliance and increase state revenue in the tax sector. While taxpayers are granted the right to request a judicial review, excluding the Directorate General of Taxes, as an administrative body or official, from filing for judicial review, as seen in Constitutional Court Decision Number 24/PUU-XXII/2024, could negatively affect state revenue and fail to reflect fair legal certainty.

### **Model Regulation of Submission of Tax Dispute Judicial Review to Realize Legal Certainty Related to the Achievement of Tax Revenue Targets in the State Budget**

Tax is a major tool in the modern economic system. Apart from being the main source of revenue for the Indonesian government, the role of taxes is one of the factors that cannot be ignored in achieving economic stability. Taxes play an important role in shaping fiscal policy, controlling inflation, encouraging economic growth and achieving a fairer distribution. Taxes are used by the government to finance various government programs and activities, including the provision of public services, infrastructure, and social protection. Efficient and fair taxation can ensure the sustainability and stability of state finances which in turn contribute to overall economic stability (Saputra, 2024).

Taxes play a role in encouraging the realization of the state budget, one of the biggest supporters of the achievement of the state budget realization target is the taxation sector. The state budget posture consists of state revenue, state expenditure and financing. The realization of the State Budget up to 30 September 2024 recorded State Revenues reaching Rp2,008.28 trillion or 71.67 percent of the target. The realization of the state budget consists of tax revenue reaching Rp1,561.52 trillion or 67.60 percent of the target. The taxation achievement consists of Tax Revenue of Rp1,354.82 trillion or 68.12 percent of the target and Customs and Excise Revenue of Rp206.70 trillion or 64.40 percent of the target. Tax revenue was recorded on a gross and net basis to improve since the May 2024 period.

Tax revenue growth occurs in line with economic recovery and tax reform. Tax reform carried out by the Directorate General of Taxes since several years earlier has become one of the supporting factors to improve the tax ratio and increase tax revenue growth through integrated and sustainable supervision and law enforcement.

Richard A. Posner in his theory of Economic Analysis of Law provides a comprehensive framework for understanding the economic consequences of certain legal policies. The theory shows the economic implications of a law, legal decision, and judicial process. Posner's theory can be interpreted that the law should function to maximize economic efficiency (Hapsari, 2024).

Constitutional Court Decision Number 24/PUU-XXII/2024, which provides exceptions for State Administrative Bodies or Officials, such as the Directorate General of Taxes, may lead to a legal outcome that results in a loss of state revenue. State Administrative Officials, in making State Administrative Decisions, act in the interest of the government, which also represents the public interest in achieving the welfare of all citizens.

Legislation is a key form of legal creation and an essential component of the national legal system in Indonesia. It is also a highly effective tool for legal reform due to its binding and enforceable legal authority. In Indonesia, tax reform is partly centered on updating tax regulations to enhance provisions that can boost the economy, particularly in terms of state revenue from the tax sector. The urgency of tax reform in the field of tax regulations is to ensure legal certainty, accommodate economic dynamics, and expand the tax base and increase tax revenue.

Achieving the tax revenue target can be built by providing legal certainty so that public participation is formed with the willingness to pay taxes voluntarily. The community interprets the law or regulation as something that must be obeyed, giving rise to a tendency for people to look

for loopholes to avoid paying taxes, while the state interprets the law or regulation as a tool to collect revenue through taxes regulated in law.

When comparing tax law enforcement in Indonesia with that of a tax authority in a developed country like the United States, there are notable differences in approach that ultimately influence the level of taxpayer compliance.

Regulations related to taxation in the United States are regulated in the Tax Court Rules, the state recognizes and provides protection of taxpayer rights through laws, regulations, and administrative documents. The United States issued a publication containing taxpayer rights in Publication 1, entitled The Taxpayer Bills of Rights in 2014. The publication contains information on taxpayers' rights in taxation processes such as tax audits, objections and appeals, tax collection and restitution. Taxpayer rights encompass the Right to Be Informed, the Right to Quality Service, the Right to Pay Only the Correct Amount of Tax, the Right to Challenge the IRS's Position and Have Their Voice Heard, the Right to Appeal an IRS Decision in an Independent Forum, the Right to Finality, the Right to Privacy, the Right to Confidentiality, the Right to Retain Representation, and the Right to a Fair and Just Tax System (Mulyono et al., 2024).

Legal remedies for tax disputes that cannot be resolved by executive agencies, can be submitted to the Trial Courts, where the Trial Courts consist of 3 (three) courts, namely the US Tax Courts, US District Courts, US Courts of Federal Claims. Taxpayers can choose one of the courts to resolve tax disputes, if the taxpayer or tax authority is not satisfied, then the dispute can be forwarded to the Court of Appeals or the US Court of Appeals of the Federal Circuit, then if the decision of the Court of Appeals is not satisfactory, then the party in dispute can continue legal action to the Supreme Court (Mulyono et al., 2024).

The United States tax authorities with a description of the tax dispute resolution can be concluded, that the taxpayer's rights as the main object that must be given ideal treatment, among others: (Mulyono et al., 2024)

1. The right to be informed, supported, and listened to.
2. The right to appeal.
3. The right to pay only the accurate amount of tax.
4. The right to legal certainty.
5. The right to privacy.
6. The right to confidentiality and secrecy.

The taxpayer's rights consist of the substance of tax law, namely tax laws and regulations. The right to obtain information, assistance or to have their complaints heard, is a right given with the aim that taxpayers carry out their tax obligations correctly, obtain correct information in connection with the tax obligations that must be carried out, and know what to do to fulfill the statutory provisions. Taxpayers may request special consultation to the tax authority on tax issues encountered. The tax administration is open to complaints, input and criticism from taxpayers so that the services provided to taxpayers can meet the expectations of taxpayers (Mulyono et al., 2024).

The Law on General Provisions and Tax Procedures, as a tax regulation in Indonesia, must align with the principles of tax collection, including fairness, legal certainty, and justice. Taxpayers and tax authorities ideally have an interrelated legal relationship in relation to the rights and obligations to pay taxes. Economic development with various dynamics results in overlapping regulations in various sectors, so that regulatory harmonization is needed so that these regulations can create legal certainty and can support each other's goals, especially in terms of state revenue. The government does not need to be reactive in facing and resolving problems in the field of taxation, the government only needs to ensure that the implemented system is implemented properly and does not make policy changes in high intensity.

## **Conclusion**

### **Legal certainty on the filing of a Judicial Review by the Directorate General of Taxes related to tax disputes after the Constitutional Court Decision Number 24/PUU-XXI/2024 dated March 20, 2024.**

Examination of Article 132 paragraph (1) of the Law on State Administrative Courts becomes inappropriate if the Respondent in this case is the State Administrative Body and / or Officials are limited in their rights not to be able to file a Judicial Review. The restriction of the right to file a Judicial Review to the Directorate General of Taxes as a State Administrative Officer is a form of blockage of access in seeking legal certainty and justice, because the appeal decision is the last legal remedy, so that if there is an error in the decision there is no correction mechanism from the higher judiciary.

A request for judicial review by a State Administrative Agency or Official in a tax dispute does not indicate that the State Administrative Agency or Official, having lost at the appeal or cassation level, has displaced the role of the State Administrative Court as a means of legal protection for the public. The Directorate General of Taxes is legally obligated to promptly implement or directly enforce Tax Court decisions that have become final and binding. In this case, the execution of the Tax Court decision is not paused or halted, and taxpayers may still be entitled to their rights, such as interest compensation.

The Tax Court is the sole judicial body intended to ensure justice in tax disputes, aiming to enhance tax compliance and increase state revenue in the taxation sector. The Constitutional Court Decision Number 24/PUU-XXII/2024, which grants exceptions for State Administrative Bodies or Officials, such as the Directorate General of Taxes, could lead to a legal outcome that results in a loss of state revenue. State Administrative Officials, when making State Administrative Decisions, act in the interest of the government, which also represents the public's interest in achieving the welfare of all citizens.

### **Regulatory model for filing a judicial review of tax disputes in order to realize legal certainty related to the achievement of tax revenue targets in the APBN**

The achievement of tax revenue targets can be built by providing legal certainty so that public participation is formed with the willingness to pay taxes voluntarily. The submission of a Judicial Review in a tax dispute is in order to obtain legal certainty, justice and solely carry out the function of the Directorate General of Taxes in maintaining tax revenue without delaying the rights of taxpayers that must be implemented based on the Tax Court Decision. The Directorate General of Taxes as an Agency or Administrative Officer should not be restricted in its right to file a Judicial

Review because it may have an impact on the loss of state revenue, and does not reflect equitable legal certainty.

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