

# CHAPTER I

## INTRODUCTION

### 1.1 Research Background

The high tax dispute is still a problem faced by various countries worldwide. This has the potential to continue to occur in the midst of many changes in tax policy, both globally and domestically. These changes require time of adjustment, understanding, and socialization. As a result, this condition causes different interpretations of a rule. The problem becomes more complicated when there is a buildup of cases in the Tax Court. This is because the accumulation of tax disputes has the potential to create legal uncertainty, both for taxpayers and tax authorities (news.ddtc.co.id).

Differences in understanding a rule usually occur when there are uncertain regulations, still in the gray area, or rules that have multiple interpretations. In the absence of clear regulatory guidelines and still in the gray area, tax authorities often exercise discretion to determine legal action in a tax case at hand. On the one hand, discretion does provide legal certainty for the cases at hand. On the other hand, discretion can also cause differences in legal treatment to taxpayers. Meanwhile, when the regulations are multi-interpreted, the situation that most often occurs is that taxpayers and tax authorities will have different positions in implementing the provisions. Undoubtedly, both sides will defend their respective positions. If this condition continues and there is no agreement and a common understanding, the problem will be resolved through the Tax Court (news.ddtc.co.id).

A tax collection system that authorizes taxpayers to determine the amount of tax payable annually in accordance with the applicable tax laws and regulations. Where in this system, the initiative and activity of calculating and collecting taxes is entirely in the hands of the taxpayer, this system is known as the self-assessment system (Resmi, 2019). From this system, it can lead to differences of opinion between the calculation of the amount of tax payable between the taxpayer and the tax authorities. This can refer to a tax dispute over the issuance of a tax assessment letter by the tax authorities against taxpayers.

Juli and Sariono (2014) states that taxes include engagements arising from the law. The reflection of this aspect, for example, is that the taxpayer has the obligation to pay taxes (schuld) and if taxpayers or called as WP does not want to pay the tax, then the WP is considered to have allowed the state to take his property as much as the tax debt (haftung).

In connection with the rules in the field of tax law are *lex specialis derogat lex generalis*, means that special regulations take precedence over general regulations. In this case, special regulations are tax laws, while general regulations are public laws or other laws that have existed before. Furthermore, tax law adheres to an imperative understanding which means that its implementation cannot be delayed. For example, in the case of filing an objection, prior to the issuance of a decision from the directorate general of taxes that the objection is accepted, the taxpayer who submits the objection must first pay the tax in accordance with what has been determined. Ispriyarso (2018) based on the provisions of the applicable tax law, taxpayers are given legal remedies in tax disputes, namely objections, appeals, lawsuits and judicial review. Then, this remedies gives taxpayers the right to obtain justice in taxation.

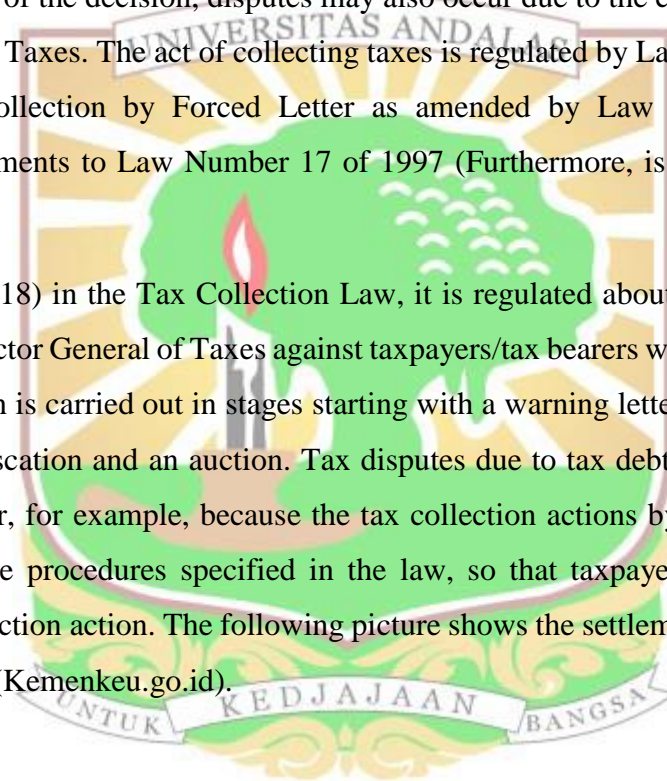
The tax assessment letter or commonly called SKP issued by the directorate general of taxes or commonly called the DJP is the result of a routine inspection carried out by the DJP. This inspection is carried out on taxpayers for fulfilling their tax obligations, which aims to test whether taxpayers comply in fulfilling their tax obligations or not. Then, the results of the inspections must be notified to the Taxpayer through the submission of the Notification of inspection Results (SPHP) which is attached with a list of inspection findings by including the legal basis for the findings. The inspection in the Taxpayer compliance test ends with the preparation of the inspections Result Report (LHP) and legal products which can be in the form of: Underpaid Tax Assessment Letter (SKPKB), Additional Underpaid Tax Assessment Letter (SKPKBT), Zero Tax Assessment Letter (SKPN), Overpaid Tax Assessment Letter (SKPLB) (“Pemeriksaan | Direktorat Jenderal Pajak” n.d.).

Ispriyarso (2018) implementing tax collection by the government/fiscus against Taxpayers, it is very possible for tax disputes to occur. Tax disputes can occur due to differences of opinion between taxpayers/tax bearers and the government regarding the amount of tax that must be paid. Tax disputes can occur due to several things, including: The existence of tax policies issued by the Directorate General of Taxes based on the authority granted by law. However, taxpayers are dissatisfied with the policy so that they file legal remedies which are indeed allowed by Law No. 14 of 2002 concerning the Tax Court, There are differences in

interpretation between taxpayers and the Directorate General of Taxes regarding the laws and regulations, There are differences in the method of calculating the amount of tax regarding the amount to be paid, and the last one is an objection to the imposition of tax penalties. (Online Pajak).

Objection efforts can be considered as dispute settlement through quasi-administrative courts because they are handled by administrative institutions. Appeals and lawsuits are dispute settlement through pure administrative courts. Furthermore, the final decision can be directly submitted for judicial review to the Supreme Court (MA). Efforts for Cassation and Judicial Review are handled by the Supreme Court (Juli and Sariono 2014). Ispriyarso (2018) in addition, as a result of the decision, disputes may also occur due to the collection policy of the Director General of Taxes. The act of collecting taxes is regulated by Law Number 19 of 1997 concerning Tax Collection by Forced Letter as amended by Law Number 19 of 2000 concerning Amendments to Law Number 17 of 1997 (Furthermore, is called as law on tax collection).

Ispriyarso (2018) in the Tax Collection Law, it is regulated about tax collection by the tax authorities/Director General of Taxes against taxpayers/tax bearers who have tax debts. The tax collection action is carried out in stages starting with a warning letter, a letter of coercion, a warrant for confiscation and an auction. Tax disputes due to tax debt collection actions by the fiscus can occur, for example, because the tax collection actions by the fiscus are not in accordance with the procedures specified in the law, so that taxpayers feel disadvantaged because of the collection action. The following picture shows the settlement of tax disputes for 2015-2021 period: (Kemenkeu.go.id).



## Statistics

Settlement of tax disputes for 2015 - 2021

Penyelesaian Sengketa Pajak Tahun 2015-2021									
No	Hasil Putusan	Tahun							Total
		2015	2016	2017	2018	2019	2020	2021	
1	Pencabutan dan Penetapan	174	1.350	1.524	250	240	141	232	3.911
2	Tidak Dapat Diterima	1.187	1.782	701	1.053	621	573	1.381	7.298
3	Menolak	2.294	2.900	2.600	1.997	2.388	2.507	3.297	17.983
4	Menambah Pajak yang Harus Dibayar	13	8	1	9	1	6	9	47
5	Mengembalikan Sebagian	1.217	1.353	1.373	1.389	1.903	2.282	2.590	12.107
6	Mengembalikan Seluruhnya	4.094	5.332	4.982	5.228	4.937	4.598	5.338	34.509
7	Membatalkan	94	128	50	37	76	21	112	518
	<b>Total</b>	<b>9.073</b>	<b>12.853</b>	<b>11.231</b>	<b>9.963</b>	<b>10.166</b>	<b>10.128</b>	<b>12.959</b>	<b>76.373</b>

Number of Dispute Files for 2015-2021

Jumlah Berkas Sengketa Menurut Terbanding/Tergugat 2015-2021									
No	Terbanding/Tergugat	Tahun							Total
		2015	2016	2017	2018	2019	2020	2021	
1	Dirjen Pajak	7.669	7.109	5.553	7.813	12.882	14.660	12.316	68.002
2	Dirjen Bea dan Cukai	4.069	3.024	3.994	3.574	2.142	1.830	2.803	21.436
3	Pemda	891	21	32	49	24	144	68	1.229
	<b>Total</b>	<b>12.629</b>	<b>10.154</b>	<b>9.579</b>	<b>11.436</b>	<b>15.048</b>	<b>16.634</b>	<b>15.187</b>	<b>90.667</b>

(Figure 1.1: Settlement of Tax Disputes for 2015-2021)

The domestic and global tax landscapes have continued to grow significantly and become more complex this year. This development was marked by the arrival of an era of fiscal consolidation which was followed by the ratification of the Job Creation Act, the Law on Harmonization of Tax Regulations, the Law on Financial Relations between the Central Government and Regional Governments (HKPD), along with legal products as derivatives. This development also has a major impact on all aspects of the tax business process, including tax disputes. Tax disputes have the potential to continue to emerge in the midst of many changes in tax policy that require time for adjustment, understanding, and socialization. In the end, this condition can trigger different interpretations of a rule ([news.ddtc.co.id](http://news.ddtc.co.id)).

The Directorate General of Taxes (DGT) noted an increasing trend in the number of objections filed by taxpayers. Director of Objections and Appeals of DJP Wanseptia Nirwanda said that there were 19,037 applications for objections submitted by taxpayers in the January-October 2021 period. This figure increased compared to the same period for 2020 as many as 17,181 objections. In 2020, there were 20,692 submissions for objections submitted by taxpayers. Then as many as 18,849 objections could be completed by the DJP ([news.ddtc.co.id](http://news.ddtc.co.id)).

In 2020, the tax court has resolved tax disputes between the authorities and taxpayers as many as 10,128 dispute files out of 16,634 files submitted. Most of the decisions in favor of taxpayers in court cases. In 2021 tax disputes were successfully resolved by the tax authorities as many as 12,959 dispute files out of 15,187 files that were submitted. There are seven categories of decisions made by courts on tax disputes. First, dispute resolution by revocation of case files in 2020 and 2021, respectively, as many as 141 and 232 files. Second, the results of the decisions that cannot be accepted are 573 and 1,381 tax dispute files. Third, the results of the decisions that rejected were 2,507 and 3,297 disputed files. Fourth, the results of the decision that add to the tax to be paid are only 6 and 9 dispute files. Fifth, the results of the decision that partially granted the taxpayer's claim were 2,282 and 2,590 dispute files. Sixth, the results of the decision that fully granted the taxpayer's claim were 4,598 and 5,338 case files. Seventh, the results of the decision which canceled 21 and 112 tax dispute files (Source: news.ddtc.co.id). From the data above the number of dispute files submitted to the Tax Court throughout 2021 reached 12,316 files. This number is down 15.9% compared to the number of dispute files in 2020 which were 14,660 files.

In the field of taxation, the issue of tax disputes is very important to study and understand. Regarding the principle of justice, it cannot always be said that the tax officer is always right. The number of disputes filed every year means that there are still many errors that occur in the tax audit process that are not approved by the taxpayer or the taxpayer is not satisfied with the assessment letter issued by the tax office. In addition, this study will discuss how to resolve corporate income tax disputes which will be seen through the trend of tax court decisions, the arguments of each parties and the leading argument by the Assembly. Therefore, this can be a consideration for the Taxpayer in submitting something related to the objection, appeal, lawsuit, or review process that will be carried out by the Taxpayer before taking the tax dispute legal route at the Tax Court or at the Supreme Court. .

Furthermore, taxpayers must know that going to a tax court is a very risky thing, such as: large costs, waste time, looks for a lawyer, runs out of energy and follows the course of the dispute until it is decided. Then, in which case the PPH-corporate dispute case is won by the taxpayer, it will certainly affect the Taxpayer's own profit, whereas if the dispute case is defeated by the DGT, it will have a major impact on the tax authorities, state revenues and also the image of the DGT as a State official in the eyes of the general public.

In cases related to taxation, there are 2 types of decisions, namely: tax court decisions, and the Supreme Court. The cases that reach the tax court are varied, with various categories in taxation such as: PPH 21, PPH 23, PPH 24, PPH 26, PPN, corporate income tax, etc. In this study, the researcher only focused on the case of the corporate income tax dispute. The reason for choosing Corporate PPH is because researchers are interested in corporate PPH cases that involve many aspects that are directly related to the taxpayer's business activities, such as: income statements, agreements, transfer pricing, intra-company transactions, arm's length principle, hidden debt, bad debt-expense, etc. So, from here it can be seen in what cases the subject of the dispute is granted or rejected by the tax court and how the disputing parties strengthen their arguments in court. Although for this research, researcher just focus on rejected decision by the Tax Court.

Based on the background described above, the researcher is interested in researching "**Trend of Tax Court Decisions in Cases of Corporate Income Tax Disputes in Indonesia**", which provides more insight of final decision of tax court also contributions for researcher and public.

## **1.2 Research Questions**

Tax dispute cases that tend to have the same pattern every year mean that the understanding and interpretation of tax regulations are still uneven for taxpayers. On the other hand, DGT must be more thorough and objective in issuing a decision letter or objection decision because the scope of the corporate income tax dispute case is a matter related to the fiscal income statement of the comparison business activities. Thus, it takes a lot of references and concise mapping of the dispute subject to become a good reference for taxpayers or DGT. In this study, the researcher formulates essential points discussed in the dispute process at the Tax Court. The formulation of the problem is:

1. What is the trend in tax court decisions on corporate income tax disputes?
2. What is the subject of the dispute on corporate income tax registered in the tax court?
3. What are the reasons that Panel of Judges tend to accept the cases?
4. What are the reasons that Panel of Judges tend to reject the cases?

## **1.3 Research Objective**

Settlement of tax disputes in the Tax Court is useful for WP or DGT who need to know what needs to be studied and prepared to take the legal route. The aim of this research are:

1. Knowing the main problems in the case of the Corporate PPH dispute.
2. Analyzing and mapping the settlement of Corporate PPH dispute cases registered with the Tax Court.

#### **1.4 Research Contribution**

The contribution of the research can be seen from two sides: First, for taxpayers (WP) this research will provide information that can be taken into consideration before taxpayers file a dispute in the Tax Court. Second, for DGT, the information from this research can be taken into consideration before DGT issues a Decision Letter which can later cause a dispute between DGT and WP and to be more careful in examining the SPT for the corporate income tax. Then, this research is expected to provide benefits in the form of:

1. Theoretical Benefits

This research is expected to add insight and knowledge related to tax disputes, especially disputes on corporate income tax, this research is also expected to be used as reference material for tax students and further research.

2. Practical Benefits

This research is expected to be a guide and reference for companies (taxpayers) and the Directorate General of Taxes. For DGT it is an input to be more thorough and cooperative in issuing an objection decision letter which will later become a claim in a tax dispute. Furthermore, for taxpayers as a reference to be careful and full of preparation if they decide to proceed to the trial stage in the tax court.

#### **1.5 Writing Systematic**

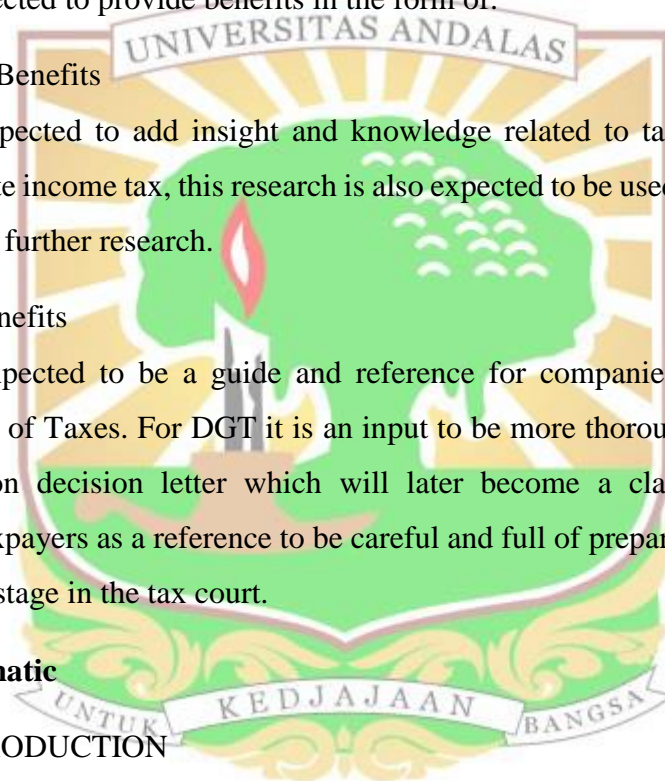
##### **CHAPTER I: INTRODUCTION**

This chapter explains the background of the problem to be researched, the formulation of the problem, the purpose of the research, the benefits of research, and the writing system.

##### **CHAPTER II: LITERATURE REVIEW**

This chapter explains literature reviews related to research topics, secondary data, and previous research.

##### **CHAPTER III: RESEARCH METHODS**



The research method provides an overview of the plan for conducting the research. This chapter includes the research design, data collection method, population and sample and research and data analysis technique.

#### CHAPTER IV: RESULT AND DISCUSSION

This chapter outlines data collection results, data analysis, and discussion of the results.

#### CHAPTER V: CONCLUSIONS

Conclusions are drawn from the research results, limitations of this research, and suggestions for further research.

