



## Imposition of Income Tax on Severance Pay: Dispute Analysis and Legal Interpretation in Tax Court Decisions

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### ABSTRACT

Termination of Employment (PHK) not only has consequences for employment but also for taxation, particularly regarding the imposition of Income Tax (PPh) on severance pay. In practice, the imposition of PPh on severance pay often gives rise to disputes between taxpayers and tax authorities due to differing interpretations of applicable legal provisions. This study aims to analyze the typology of PPh disputes on severance pay and the patterns of legal interpretation in Tax Court decisions. The research method used is normative legal research with statutory, case, and conceptual approaches. The results indicate that disputes are dominated by three main issues: determining the time of tax liability, the tax base, and the classification of payment components. Tax Courts tend to use a substantive approach (substance over form) in interpreting tax provisions. This study emphasizes the importance of norm reformulation to increase legal certainty, fairness, and utility in the tax system.

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## **INTRODUCTION**

Termination of employment (PHK) is a common event in industrial relations and can arise due to various causes. In the context of globalization and the acceleration of industrial sector development, layoffs are one of the crucial issues in the employment sector. Various determinants, such as fluctuations in economic conditions, technological advancements, and internal company policies, are often the basis for consideration in making decisions to terminate an employment relationship. These policies not only have implications for the loss of livelihoods for affected workers, but also have broader consequences for the level of labor welfare and macroeconomic stability. Ideally, layoffs should be avoided, but in practice these conditions are often difficult to prevent. Job losses create economic uncertainty that has the potential to reduce the level of welfare of workers and family members who depend on that income. Therefore, in order to ensure the protection and welfare of workers, the practice of unilateral layoffs should be avoided, except in situations where it is truly urgent and cannot be resolved through other more proportionate policy alternatives.

Layoffs are one of the legal events in industrial relations that have various consequences, both from the employment and taxation aspects. Article 4 paragraph (1) of Law Number 7 of 1983 concerning Income Tax (Income Tax Law) as amended several times recently by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), pension money is a tax object because it is income. Income itself is defined as additional economic ability received or acquired by the taxpayer, which can be used for consumption or to increase wealth, in any name and in any form. This is based on the characteristics of income as any additional economic ability that can be used for consumption as well as to increase the wealth of taxpayers. In industrial relations practice, termination of employment is not always directly followed by the fulfillment of workers' normative rights by employers. There are conditions where payments are made in stages, and it is not uncommon to be the object of disputes resolved through the Industrial Relations Court. Thus, severance pay is not only related to the protection of workers' rights, but also concerns tax obligations that must be fulfilled by the parties.

In practice, the imposition of Income Tax on severance pay often causes disputes between Taxpayers and tax authorities. The dispute is generally not related to the difference in tax rates directly, but rather to the difference in interpretation of the provisions that govern the terms and mechanisms for the application of Final Income Tax on severance pay. Problems that often arise include those related to determining when taxes are due, the classification of payment components that are included in the severance pay category, and the appropriate tax withholding mechanism. The absence of clear arrangements could potentially encourage employers to delay payments or pay them in minimal amounts, ultimately to the detriment of workers. On the other hand, without a firm legal basis, income in the form of severance pay is also at risk of not being taxed, so that it can reduce the potential for state revenue from the tax sector. Uncertainty in interpreting these provisions has the potential to cause legal uncertainty for Taxpayers and tax authorities in exercising their authority.

The complexity of these problems is increasingly seen in cases of termination of employment which are resolved through the industrial relations justice mechanism. The process of resolving labor disputes that lasts for a long period of time often causes new severance payments to be made after the Industrial Relations Court's decision with permanent legal force. This condition raises the question of how to determine when Income Tax on severance pay is due and how to classify the payment in the applicable tax regime. Differences in interpretation of these aspects often lead to disputes that must be resolved through the Tax Court.

In the context of the tax legal system, dispute resolution through the Tax Court has an important role in providing legal certainty and shaping the direction of interpretation of multi-interpreted tax norms. The legal considerations produced by the panel of judges not only serve to resolve concrete disputes between the parties, but also serve as a reference in tax administration practices. Therefore, an analysis of Tax Court rulings is important to understand how tax norms regarding severance pay are interpreted and applied in practice.

### **THEORETICAL REVIEW**

Various previous studies have examined the legal aspects of taxation related to the imposition of Income Tax on severance pay. Part of the research focuses on normative analysis of the provisions of laws and regulations that regulate the mechanism of deduction and the rate of Income Tax on severance pay, as well as its implications for tax obligations for workers and employers. Other research also highlights the relationship between tax arrangements and the protection of workers' rights in the context of termination of employment. These studies make an important contribution in explaining the regulatory framework that governs the tax treatment of severance pay.

However, most previous research has still focused on doctrinal approaches that examine legal norms textually. This approach has not fully examined how the tax provisions regarding severance pay are interpreted in the practice of dispute resolution in the Tax Court. In fact, in practice, differences in interpretation of these norms are actually the main factor that triggers disputes between taxpayers and tax authorities.

Based on the analysis of previous research, there is a research gap between the normative study of the taxation arrangement of severance pay and the practice of applying these norms in resolving tax disputes. Until now, there is still relatively limited research that comprehensively analyzes the pattern of legal considerations of the panel of judges in the Tax Court's decision related to the Income Tax dispute on severance pay. In fact, these decisions reflect the dynamics of legal interpretation that develops in practice and have an important role in shaping the direction of the application of tax law.

The novelty of this research lies in an analytical approach that examines Income Tax disputes over severance pay not only from the normative perspective of tax regulations, but also through an analysis of the patterns of legal interpretation that develop in Tax Court decisions as a source of jurisprudence. This research integrates jurisprudence analysis with the framework of legal theory, especially Gustav Radbruch's three basic legal values which include legal certainty, justice, and utility, as well as the principle of tax certainty (canon of certainty) in Adam Smith's tax theory. With this approach, this study reveals the tension between normative certainty in tax regulations and the practice of interpretation in dispute resolution, as well as showing the role of the Tax Court in shaping the direction of the interpretation of severance tax law in Indonesia.

## **METHODOLOGY**

This research is normative legal research that focuses on the analysis of the legal norms that govern the imposition of Income Tax on severance pay and how these norms are interpreted in the practice of dispute resolution in the Tax Court. Normative legal research is research that focuses on the study of legal documents, laws and regulations, and legal doctrine to understand and analyze legal issues in depth, as well as court decisions related to the object of research in order to gain a comprehensive understanding of the applicable legal construction.

In analyzing research problems, several research approaches are used, namely the statute approach, the case approach, and the conceptual approach. The legislative approach is used to examine various legal provisions that regulate the imposition of Income Tax on severance pay, both sourced from tax regulations and regulations in the field of employment. The case approach is used to analyze the decisions of the Tax Court related to the Income Tax dispute on severance pay in order to understand the pattern of legal considerations of the panel of judges in interpreting the applicable tax provisions. Meanwhile, a conceptual approach is used to analyze research problems through legal concepts and theories, especially those related to basic principles in tax law as well as the theory of legal certainty, justice, and utility.

The types of legal materials used in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations related to Income Tax on severance pay as well as Tax Court decisions relevant to the object of research. Secondary legal materials are in the form of scientific literature, books, journal articles, and the results of previous research that discuss tax law, tax disputes, and the relationship between tax law and labor law. The tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources that support the understanding of legal terms and concepts used in research.

The technique of collecting legal materials is carried out through library research by tracing, inventorying, and examining various sources of legal materials that are relevant to the research problem. Furthermore, the legal materials that have been obtained are analyzed using a qualitative analysis method with a descriptive-analytical approach, namely by elaborating, interpreting, and connecting various legal provisions and court decisions to gain a systematic understanding of the pattern of Income Tax disputes over severance pay and the legal interpretations that develop in Tax Court decisions.

## **RESEARCH RESULTS AND DISCUSSION**

### ***Rules on the Normative Rights of Workers Due to Layoffs***

Unilateral layoffs often place a significant burden on affected workers. This situation creates uncertainty as workers are required to immediately acquire new sources of livelihood, while access to employment opportunities is not always proportionately available amid increasingly fierce labor market competition. In addition to having implications for the social and economic dimensions, layoffs also have juridical consequences that are not simple. From the perspective of labor law, employers are burdened with normative obligations to fulfill the rights of dismissed workers, including the payment of compensation in the form of severance pay and other rights, as stipulated in the provisions of applicable laws and regulations. Article 156 paragraph (1) jo. Article 40 paragraph (1) of Government Regulation No. 35 of 2021 has established the normative rights of workers due to layoffs, namely, severance pay; service award money and rights reimbursement money. These rights should not be retained, they should be given to employees whose calculations are according to the working period, wages and reasons for layoffs.

The Job Creation Law adds provisions on criminal sanctions to employers who do not pay compensation for workers' rights due to layoffs by including the provisions of Article 156 paragraph (1) of Law No. 13 of 2003 concerning Manpower into Article 185 paragraph (1), namely criminal sanctions in the form of imprisonment of a minimum of 1 (one) year and a maximum of 4 (four) years and/or a minimum fine of Rp.100,000,000,- (one hundred million rupiah) and a maximum of Rp. 400,000,000,- (four hundred million rupiah). Article 185 paragraph (2) further emphasizes that criminal acts in paragraph (1) are criminal acts. The imposition of this criminal sanction can be considered as an answer to the weakness in the implementation of the Industrial Relations Court Decision which had permanent legal force before the enactment of the Job Creation Law. A new provision that answers the problem of the difficulty of executing the PHI decision that punishes employers to pay for the normative rights of workers due to layoffs. Furthermore, in the Police, an employment desk has been formed, so that criminal problems in the field of employment can be enforced by law enforcement.

The essence of severance pay is as a safety net for workers to be able to continue their lives and their families, when they are no longer working. The service award money is an appreciation for contributions or service during the

Working in a company, while compensation money is a payment for workers' rights that have not been taken such as leave reimbursement, overtime pay and return to the place of origin. Thus, these workers' rights are a manifestation of the mandate of Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which are part of human rights, in this case workers.

In practice, in addition to severance pay, other rights that are the rights of workers when experiencing layoffs are also often regulated in Collective Labor Agreements or Company Regulations, which are of better quality than laws and regulations that are the legal basis for the payment of workers' rights, including severance pay. This can also be a problem whether other rights include severance pay that is subject to income tax.

### ***Legal Basis for the Imposition of Income Tax on Severance Pay***

In principle, severance pay paid by employers to workers due to termination of employment is included in the object of Income Tax (PPh), because it is qualified as income for the recipient. Further arrangements regarding the imposition of taxes on certain types of income are listed in Article 4 paragraph (2) of the Income Tax Law, which determines that certain income can be subject to final income tax in accordance with the provisions of laws and regulations. The imposition of taxes on severance pay in Indonesia, which is regulated in Income Tax Article 21 is final (PP 68/2009 & PMK 16/2010), aims to provide legal certainty but is often seen as unfair because it reduces the funds for the "economic cushion" of workers. Progressive rates are applied, with tax exemption for severance pay below IDR 50 million.

Technical arrangements regarding the imposition of Final Income Tax on severance pay are further regulated in several implementing provisions.

- a. Government Regulation Number 68 of 2009 concerning Income Tax Rates Article 21 on Income in the Form of Severance Pay, Retirement Benefit Money, Old Age Allowance and Old Age Guarantee Paid at the same time, stipulates that income in the form of severance pay, retirement benefit money, retirement ransom, and old age allowance paid at once are subject to Final Income Tax at a progressive rate, which ranges from 0% to 25%.
- b. Regulation of the Minister of Finance (PMK) No. 16 of 2010 concerning Procedures for Withholding Income Tax Article 21 on Income in the Form of Severance Money, Retirement Benefit Money, Old Age Allowance and Old Age Security Paid at Once which is updated in the Law on Harmonization of Tax Regulations, regulates the technical aspects of implementation, including procedures for withholding, depositing, and reporting Final Income Tax on such income.

The implementation of this Final Income Tax scheme has the juridical consequence that the company is positioned as a tax withholding company that has full obligations and responsibilities to withhold, deposit, and report severance income tax correctly and on time. Any negligence in carrying out these obligations has the potential to cause fiscal corrections and administrative sanctions from the tax authorities.

The issue of termination of employment, including the payment of severance pay to workers, often has to go through an Industrial Relations Court Decision which takes a relatively long time. In the decisions of industrial relations disputes that have been proven to have occurred unilateral termination of employment relations, after careful scrutiny, it turns out that the Panel of Judges did not consider the provisions of Article 3 paragraph (1) PMK No. 16/PMK.03/2010. In fact, the verdict is condemnatorial, which states the punishment for the employer to pay compensation money that should be qualified as severance pay to the worker. This can be a problem for employers to determine the amount of income tax on severance pay and so on on withholding, depositing, and reporting taxes correctly and on time. The Panel of Judges of the Industrial Relations Court is not authorized to determine the amount of income tax deduction on severance pay, because it is not the competence of the Industrial Relations Court which is only authorized to resolve rights disputes, conflicts of interest, layoff disputes and disputes between labor unions/labor unions in one company. If there are problems in terms of withholding, depositing, and reporting taxes by employers, then this can be the domain of competence of the Tax Court.

The Tax Court is needed to resolve tax disputes because the vision of the Tax Court itself is free, independent, impartial and trusted in enforcing the law and justice based on tax laws and regulations and a sense of community justice, which is authoritative and recognized by the world. Therefore, every existing tax dispute can be decided fairly and has legal certainty, and benefits.

### ***Main Issues of Severance Pay Income Tax Disputes in Tax Court***

The Tax Court is the court of first and last instance in examining and deciding tax disputes (Article 33 paragraph (1) of Law No. 14 of 2002 concerning the Tax Court). Therefore, the legal remedy that can be taken against the appeal decision and the cassation decision of the Tax Court lawsuit is Review to the Supreme Court. The Tax Court's decision has permanent legal force, so the Tax Court's decision cannot be sued to the General Court or the state administrative court, unless the decision is unacceptable that concerns authority/competence.

The imposition of taxes on severance pay often raises disputes in the Tax Court. These problems are generally not caused by the difference in tax rates directly, but by differences in interpretation regarding the terms and conditions for the implementation of final income tax on severance pay. The results of the study of several Tax Court decisions related to severance income tax can be seen in the following synthesis table.

**Table 1. Synthesis of Tax Court Decisions Related to Income Tax Disputes on Severance Pay**

No.	Tax Court Decision Number	Main Issues/Issues	Consideration of the Panel of Judges	Critical Analysis/ Legal Implications
1.	5491/PP/M.XII/21/2014	Determination of when income tax is payable on severance pay paid after the decision of the Industrial Relations Court	The judge considered that the time of tax due was determined based on the realization of the actual payment/ payment to the recipient, not at the time of accounting recording	Emphasizing that the obligation to withhold income tax arises at the time of actual payment to workers.
2.	56607/PP/M/XII/21/2015	Classification of severance payments made after the employment dispute process	The judge assessed that the delay in payment due to legal proceedings did not change the character of the payment as severance pay	Ensure certainty that severance pay paid after the Industrial Relations Court's decision can still be subject to Final Income Tax
3.	66713/PP/M.XII/21/2015	Differences in interpretation regarding the payment component included in severance pay	The judge considered that the classification of payments must be based on the substance of the payment, not only on the nomenclature used.	Application of <i>the principle of substance over form</i> in the determination of tax objects. Using a progressive approach
4.	70673/PP/M.XII/21/2016	Disputes about Tax Basis (DPP) for layoff compensation consisting of several components	The judge separated the severance pay component from other income components that were not directly related to the layoff	Provide guidelines in determining the payment components that are subject to Final Income Tax

5.	No. 82356/PP/ M.XII/21/2 017	Differences in tax treatment of additional compensation in a Collective Bargaining Agreement	The judge considered that additional compensation can still be considered severance pay if it is compensation for the termination of the employment relationship	Provide guidelines in determining the payment components that are subject to Final Income Tax
6.	95842/PP/ M.XII/21/2 018	Disputes related to withholding income tax on gradual layoff compensation payments	The judge considered that the payment derived from a single layoff event could still be seen as a single payment unit	Provide flexible interpretation of the concept of payment at once
7.	103247/PP /M.XII/21 /2019	Determination of the tax regime for compensation payments that exceed the minimum provisions of the Labor Law	The judge considers the purpose of the payment and its legal basis in determining the tax regime	Clarify the boundary between severance pay subject to Final Income Tax and other income

*Source: The Author's Processed Results of Several Tax Court Decisions Related to Severance Income Tax.*

Based on the synthesis of several Tax Court decisions, it can be identified that Income Tax disputes over severance pay generally revolve around three main issues, namely the determination of when taxes are payable, the determination of the basis for imposing taxes, and the classification of payment components that are included in the severance pay category. The pattern of legal considerations of the panel of judges shows a tendency to interpret tax provisions substantively by considering the economic character of severance payments and the context of industrial relations behind them. The main issue of severance income tax is described as follows.

a. Determination of when final income tax is payable.

Based on the applicable provisions, the final income tax on severance pay is payable at the time the payment is made in a lump sum. However, in practice, disputes often arise, especially in the case of layoffs. This happens because the process of resolving layoffs through the Industrial Relations Court often lasts for a long period of time, even up to several years, so that severance payments can only be carried out after the decision has permanent legal force (*inkracht van gewijsde*). In such conditions, the tax authorities often interpret the delay in payment as a payment that is not

made at once if the settlement process exceeds a certain time limit, for example more than 2 (two) years. On the other hand, the taxpayer argues that the severance payment must still be treated as a lump sum payment because it comes from a single decision of the Industrial Relations Court and is not carried out in stages.

The Tax Court's decision affirms that the obligation to withhold income tax arises at the time of actual payment to the worker and provides certainty that severance pay paid after the Industrial Relations Court's decision can still be subject to Final Income Tax (see table 1. column Legal implications).

b. Determination of Tax Basis (DPP)

Problems regarding the basis for imposing taxes in severance pay payments often arise due to the overlap between the various components of compensation received by workers after the termination of employment. This complexity is not only related to the technical aspects of tax withholding, but also concerns the interpretation of the tax norms that govern the classification of types of income. In practice, differences in interpretation between taxpayers and tax authorities on the income component that falls under the severance pay category often trigger disputes in the Tax Court. This condition shows that the lack of clarity in determining the basis for imposing taxes has the potential to cause legal uncertainty for the parties.

Some of the most common problems that arise in disputes related to the basis for tax imposition include the following:

a. Inaccuracies in the mechanism of tax deductions.

In the practice of withholding taxes on post-layoff payments, companies often make mistakes in determining the right tax regime. There are cases where Final Income Tax with a progressive rate of 0% to 25% is imposed on the income component that should be subject to Article 21 Income Tax which is non-final at the general rate. On the other hand, there are also situations where components that should be included in the severance pay category are actually treated as ordinary income. For example, the payment of remaining leave, annual bonuses, and other compensation that is mistakenly included as part of severance pay so that it is subject to Final Income Tax. The inaccuracy of the classification ultimately causes differences in the calculation of tax liabilities and triggers disputes between taxpayers and the fiscal authorities.

b. The validity of additional components in severance pay.

Disputes also often arise when the Collective Labor Agreement (PKB) or Company Regulation (PP) stipulates severance pay components that exceed the minimum standards as stipulated in laws and regulations in the field of employment. In this situation, there is a debate about whether all of these additional components can be treated as Final Income Tax objects like severance pay in general, or whether some of them should be qualified as other income subject to Income Tax Article 21 with a normal taxation mechanism. From the perspective of the principle of legal

certainty, this difference in interpretation shows the need for consistent interpretation so that tax norms can provide clear guidelines for business actors in carrying out tax withholding obligations.

### *Classification of Payment Components Between Severance Pay and Other Income.*

In addition to the problem of the moment of tax due and the basis<sup>4</sup> of tax imposition, another dispute that often arises is related to the classification of payments between *pedsangon* and other income. This problem can arise when a collective bargaining agreement or company policy provides additional compensation to workers who experience layoffs outside the minimum provisions stipulated in laws and regulations. In several Tax Court rulings, the tax authorities argued that the additional component could not be fully treated as severance pay subject to Final Income Tax. According to the fiscal authorities, only components that are explicitly regulated in the labor regulations can be categorized as severance pay, namely severance pay, service period expectancy money and reimbursement money, while other additional payments must be treated as ordinary income subject to Income Tax Article 21.

However, the panel of judges in several decisions tends to take a more substantive approach by considering the context of the employment relationship and the legal basis for the payment. If the additional payment is actually intended as compensation for the termination of the employment relationship and is given in a series of layoff packages, then the payment can be seen as part of severance pay.

From the perspective of legal analysis, this approach reflects the application of the principle of substance over form in tax law. This principle emphasizes that the determination of tax treatment must be based on the economic substance of a transaction, not solely on the formal form or terminology used by the parties. Thus, this approach not only provides substantive justice for taxpayers, but also strengthens legal certainty in the practice of withholding income tax on severance payments.

Tax withholding on severance pay is an obligation that must be carried out by the party making the payment. These parties can be in the form of direct entrepreneurs or third parties, namely the Employee Savings Program Fund Manager (DPTK). In the event that severance pay is paid directly by the employer to the worker, the employer acts as a tax deductor. On the other hand, if the payment of severance pay is made through a gradual transfer mechanism to the DPTK Manager, then the obligation to withhold taxes will shift to the DPTK Manager when the funds are paid to the entitled workers.

### ***Legal Interpretation in Tax Court Decisions***

Tax Court Decisions have a strategic position in the tax law system as a source of jurisprudence that provides direction for interpretation of multi-interpreted norms. In the context of income tax disputes over severance pay, the role of the Tax Court's decision is important to affirm the limits on when taxes are payable and the validity of tax withholding on various components of post-layoff payments. The legal considerations formulated by the panel of judges not only serve as a resolution of concrete disputes between the parties, but also as interpretive guidelines for future tax administration practices.

Within the framework of tax law principles, the approach used by the Tax Court generally seeks to balance the principle of legal certainty, the principle of justice, and the principle of utility. Legal certainty is needed so that taxpayers obtain clarity regarding their tax obligations, while justice demands that the tax burden be imposed proportionately in accordance with the characteristics of the income received. At the same time, the usefulness of the law is reflected in efforts to create effective tax collection practices without creating an excessive administrative burden for the parties.

In various decisions, the Tax Court tends to emphasize a substantive approach (substance over form) in assessing tax obligations. This means that the panel of judges does not solely adhere to the formal form of the transaction, but also considers the economic substance and legal context behind the severance payment. Some of the interpretive tendencies that can be identified from these decisions include the following:

a. Interpretation of when taxes are payable

In various decisions, the Tax Court tends to emphasize a substantive approach (substance over form) in assessing tax obligations. This means that the panel of judges does not solely adhere to the formal form of the transaction, but also considers the economic substance and legal context behind the severance payment. Some of the interpretive tendencies that can be identified from these decisions include the following:

1. Recognition of legitimate late payments.

The panel of judges generally accepts the arguments of corporate taxpayers if the delay in payment of severance pay occurs as a consequence of the process of resolving employment disputes through legitimate legal mechanisms, such as disputes in the Industrial Relations Court. As long as the severance payment is based on the same legal basis, namely the PHI decision which has permanent legal force, and is the payment of obligations arising from a legal event in the form of termination of employment, then the payment can still be qualified as a lump sum payment. Thus, the Final Income Tax regime can still be applied. This approach reflects the application of the principle of justice, as it considers the reality of legal processes that are beyond the control of the Taxpayer.

2. The determination of when taxes are due is based on the realization of cash payments.

The Tax Court also emphasized that the time when Income Tax is payable is determined based on the realization of cash payments to income recipients. In other words, the obligation to withhold taxes is not determined by the time of accounting recording or the recognition of obligations in the company's books, but rather by the time when the severance funds are actually paid or transferred to the former worker. This approach provides legal certainty in determining the momentum of tax withholding and is in line with the principles of tax administration that emphasize actual economic transactions.

Overall, the pattern of legal considerations shows that the Tax Court places factual and substantial aspects as the main basis in determining the tax obligation for severance pay. This approach not only strengthens legal certainty for taxpayers, but also reflects efforts to harmonize tax law principles with the dynamics of industrial relations practices.

### *Strengthening Normative Analysis of Income Tax Disputes on Severance Pay*

The dispute over the imposition of Income Tax (PPH) on severance pay basically reflects the tension between textual legal norms and the reality of industrial relations practices. In many cases, the difference in interpretation between the taxpayer and the tax authorities is not solely related to the technical aspects of tax withholding, but also to the fundamental issue of how tax norms should be interpreted to be in harmony with the basic principles of law. From the perspective of legal theory, the problem can be analyzed through the theory of the three basic values of law put forward by Gustav Radbruch, namely legal certainty (*rechtssicherheit*), justice (*gerechtigheit*), and utility (*zweckmatigheit*). These three values should run in a balanced manner in every application of legal norms, including in the field of taxation. However, income tax disputes over severance pay show that in practice the three values are often not in a harmonious position.

From the point of view of legal certainty, regulations regarding the imposition of income tax on severance pay have basically provided a normative framework through provisions that stipulate that severance payments made at once are subject to Final Income Tax at a certain rate. However, this provision still leaves a considerable room for interpretation, especially related to the definition of "lump sum payment", the determination of when taxes are payable, and the classification of payment components that are included in the severance pay category. This ambiguity ultimately opens up space for differences in interpretation between the fiscal authorities and the taxpayer, which then leads to disputes in the Tax Court.

If analyzed further, these conditions can also be reviewed through the classical principles of taxation put forward by Adam Smith, in particular "the canon of certainty and the canon of convenience". The principle of certainty requires that tax obligations be clearly determined, both regarding the amount of tax, the timing of payment, and the mechanism for collection. When tax norms do not provide adequate clarity regarding the classification of severance income and the momentum of tax payability, the principle of certainty is not fully fulfilled. On the other hand, the canon of convenience requires that tax collection be carried out at the most appropriate time and not create an excessive administrative burden for the taxpayer. In the context of delayed severance payments due to the labor dispute process, the application of taxes that do not consider the reality of the legal process has the potential to cause injustice to the parties concerned.

In the practice of tax justice, the panel of judges tends to adopt a more substantive approach by focusing on the economic substance of the transaction (substance over form). This approach can be seen from various decisions that recognize that the delay in severance pay caused by the dispute resolution process at the Industrial Relations Court does not necessarily change the character of the payment as a lump sum payment. Thus, the Final Income Tax regime can still be applied. This approach essentially reflects the judges' efforts to strike a balance between legal certainty and substantive justice.

However, from the perspective of critical analysis, the existence of repeated disputes on the same issue shows that there are normative inconsistencies in tax regulations regarding severance pay. On the one hand, tax regulations provide special treatment in the form of Final Income Tax on severance pay as a form of protection for workers who lose their jobs. However, on the other hand, the lack of clarity in the formulation of norms actually creates uncertainty for employers as tax deductors. This condition shows that the existing regulatory design has not been fully able to integrate the state's fiscal interests with the principle of protection of workers.

Furthermore, when associated with the principle of fairness in tax collection, the taxable treatment of severance pay should consider the characteristics of the income as compensation for the termination of the employment relationship, not as a periodic routine income. Therefore, an overly formalistic approach in interpreting tax provisions has the potential to ignore the social justice dimension that is the basis for severance pay itself. Tax fairness concerns not only tax rates and structures, but also the balance of taxpayers' rights and obligations, the application of progressive tariffs, non-discriminatory treatment in audits, and objective dispute resolution mechanisms. However, the implementation of justice still faces challenges, including the potential for multiple interpretations of norms, and inconsistencies in Tax Court Decisions. The certainty of tax law is studied through the mechanism of collection, inspection, and law enforcement. Legal certainty is seen as the main requirement so that taxpayers can understand their obligations clearly and can predict the legal consequences.

Based on this analysis, it can be argued that the role of the Tax Court is not only limited to the function of dispute resolution, but also functions as an agent of harmonization of legal norms through the formation of jurisprudence that is able to provide interpretation directions to ambiguous tax provisions. In this context, Tax Court decisions play an important role in bridging the tension between the interests of tax administration and the protection of taxpayers' rights, while strengthening the application of the principles of legal certainty, justice, and utility in the Indonesian tax legal system.

In response to the unclarity of norms that have the potential to cause multiple interpretations in the imposition of Income Tax on severance pay, efforts are needed to reformulate legal norms that are more prescriptive and operational. This need becomes relevant considering that various decisions of the Tax Court show the tendency to apply a substantive approach (substance over form), which in practice has not been fully accommodated in the formulation of applicable laws and regulations.

In this context, strengthening norms can be done through the formulation of provisions that explicitly regulate the definition of lump sum payments, the determination of when taxes are payable, and the classification of severance components. For example, a provision is needed that confirms that severance payments delayed due to the employment dispute resolution process are still qualified as lump sum payments as long as they originate from the same legal event. In addition, the affirmation that when taxes are payable based on the realization of cash payments, it is also important to provide legal certainty for taxpayers.

Furthermore, in terms of the classification of severance components, arrangements are needed that are not only formalistic, but also take into account the economic substance of the payment. Thus, the substance over form approach that has been developing in the jurisprudence of the Tax Court can be explicitly adopted in written norms, so as to create harmonization between judicial practice and positive regulation.

## **CONCLUSIONS AND RECOMMENDATIONS**

Based on the results of the research, it can be concluded that the Income Tax dispute over severance pay in the practice of tax justice is dominated by three main issues, namely the determination of when taxes are payable, the determination of the basis for imposing taxes, and the classification of payment components between severance pay and other income. The dispute is generally not caused by differences in tax rates, but by differences in interpretation of the tax provisions that govern the imposition of Final Income Tax on severance pay.

The pattern of legal considerations of the panel of judges in the Tax Court's decision shows a tendency to prioritize a substantive approach (substance over form), by assessing the economic character of the payment and the context of the industrial relations behind it. The Tax Court has also consistently emphasized that the time when Income Tax on severance pay is determined based on the realization of payments to workers, not at the time of accounting recording. In addition, the panel of judges tends to admit that delayed severance payments due to the employment dispute resolution process can still be treated as a lump sum payment subject to Final Income Tax. Thus, the Tax Court's decision plays an important role in providing legal certainty and shaping the direction of interpretation of tax norms that are still multi-interpreted. However, there is still a need to clarify the normative arrangements related to the imposition of income tax on severance pay in order to minimize potential disputes in the future and realize a balance between the state's fiscal interests and the protection of workers' rights.

Based on the results of the research, concrete steps are needed from policymakers to reformulate the Income Tax arrangement for severance pay through the preparation of clearer, firmer, and more implementable norms. The reformulation can be realized through the formulation of provisions that explicitly regulate crucial aspects that have been the source of disputes. In this context, several formulations of norms are recommended as follows:

1. Affirmation of the definition of lump sum payment, including recognition of delayed payments due to the labor dispute resolution process as part of a single layoff legal event.
2. The determination of when taxes are payable is based on the realization of payments (cash basis) to provide legal certainty and avoid differences in interpretation between taxpayers and tax authorities.
3. The classification of severance components is based on economic substance (substance over form), so that it is not limited to formal nomenclature, but considers the purpose and context of payment.

The formulation of such norms is not only in line with the principles of legal certainty (*rechtssicherheit*) and justice (*gerechtigheid*), but also reflects the principle of utility (*zweckmatigheit*) in tax collection. In addition, this step is expected to be able to reduce the potential for disputes in the Tax Court and increase taxpayer compliance

#### **ADVANCED RESEARCH**

Further research is recommended to broaden the scope of the analysis by comparing tax court rulings across various jurisdictions in order to identify differences in legal interpretations regarding the imposition of income tax on severance pay.

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