

The Effectiveness of Tax Dispute Resolution through Alternative Dispute Resolution (ADR) compared to Settlement through Criminal Justice: A Business Law Perspective

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ABSTRACT

Tax disputes are an inherent legal phenomenon in business practice because they are often born from differences in interpretation between taxpayers and fiscal authorities on tax obligations that must be met. Law No. 14 of 2002 provides a normative basis regarding the scope of tax disputes and establishes the Tax Court as a special forum with the authority to examine and decide cases with the nature of final and binding decisions. However, this litigation mechanism often poses problems due to the formalistic nature and length of the settlement process, resulting in high costs and legal uncertainty that are detrimental to the business world. From a business law perspective, delayed judgments and procedural rigidity not only impact a company's cash flow, but can also damage its reputation and lower investor confidence. This condition shows that there is a tension between the legal certainty offered by the law and business certainty which is the practical need of business actors. Criminalization in resolving tax disputes through criminal channels also poses reputational risks that are counterproductive to the investment climate. Alternative Dispute Resolution (ADR) offers a more flexible, efficient, and collaborative solution that is able to bridge fiscal interests with business sustainability. ADR integration is in line with the principles of fast, simple, and low-cost as mandated by Article 2 of Law No. 14 of 2002, so that it can be a strategic instrument in strengthening legal certainty, increasing voluntary compliance, and maintaining national economic stability.

Keywords: ADR; Legal Certainty; Tax Disputes

INTRODUCTION

Tax disputes in business practice are an unavoidable legal reality, as they often arise due to differences in interpretation between taxpayers and fiscal authorities regarding the obligations that must be met. Law No. 14 of 2002 Article 1 number 5 states that tax disputes include disputes born from objection decisions, reduction of administrative sanctions, and collection actions, which show the complexity of the legal relationship between the state and taxpayers. The existence of this definition emphasizes that tax disputes do not only concern the technical fiscal aspect, but also touch the business law dimension because it relates to the stability of the company's management. In the business world, prolonged disputes can create legal uncertainty that hinders investment, reduces competitiveness, and causes financial losses. This complexity shows how important it is

to have a settlement instrument that is able to provide a guarantee of legal certainty quickly and fairly. The business law perspective demands that dispute resolution be directed to mechanisms that not only uphold the interests of the state, but also maintain the sustainability of the company. If this problem is not effectively regulated, then tax disputes have the potential to become a systemic burden that is detrimental to the national economy.

The tax court process as stipulated in Article 31 paragraph (1) of Law No. 14 of 2002 gives exclusive authority to the Tax Court to examine and decide disputes, which theoretically guarantees the existence of a special forum for fiscal justice.¹ This mechanism is formalistic with strict procedural procedures, so it takes a long time to reach a final decision. Although it is intended as a means of enforcing legal certainty, the reality on the ground shows delays due to the high burden of cases and limited institutional capacity. This condition creates the risk of legal uncertainty for business actors who have to wait a long time before getting certainty about their tax obligations. From a business law perspective, such uncertainties can affect cash flow, strategic planning, and even a corporation's reputation in the eyes of investors. The problems that arise show that there is a tension between the principle of judicial formalism and the need of the business world for quick certainty.² Criticism of the litigation system in tax disputes is not intended to negate the authority of the state, but rather to demand better effectiveness. Thus, tax justice while legally valid is not necessarily effective for dynamic business needs.

The deadline for the verdict as stated in Article 43 paragraph (2) of Law No. 14 of 2002 which stipulates 12 months from the receipt of the lawsuit is actually intended to provide legal certainty. However, the practice is often inappropriate because the high number of cases that enter the Tax Court exceeds the capacity to resolve them. This situation caused a delay in the decision which actually eroded the principle of fast, simple, and low cost as affirmed in Article 2 of the Law. Protracted delays cause losses for taxpayers, especially when they have to bear additional costs and uncertainty about the status of their fiscal obligations.³ For companies operating on an international scale, such uncertainty poses multiple legal risks because it is also related to double tax avoidance agreements. Business law requires a mechanism that is able to minimize uncertainty so that economic activities are not disrupted. When legal norms do not function as intended, then the effectiveness of dispute resolution is questionable. This further strengthens the argument regarding the importance of seeking alternative mechanisms beyond formal litigation.⁴

Criminalization in the settlement of tax disputes through criminal channels has serious consequences that not only impact business actors, but also on the national investment climate. Criminal law enforcement in tax disputes is generally applied when there is an indication of a tax crime, which in the perspective of business law can be

¹ Ardhiyaningrum, F., & Setiawati, D. (2024). Hambatan dan Peluang Efektivitas Alternative Dispute Resolution (ADR) dalam Penyelesaian Sengketa Bisnis di Indonesia Berdasarkan Undang-Undang Nomor 30 Tahun 1999. *Jembatan Hukum: Kajian Ilmu Hukum, Sosial Dan Administrasi Negara*, 1(4), 138-153.

² Afifah, R. D. S. (2023). *EFEKTIVITAS PENYELESAIAN SENGKETA PAJAK MELALUI LEMBAGA KEBERATAN= THE EFFECTIVENESS OF TAX DISPUTE RESOLUTION THROUGH OBJECTION AGENCIES* (Doctoral dissertation, Universitas Hasanuddin).

³ Damayanti, A., Halimah, F., Ramadhani, R. K., Ambarwati, U. K., & Salsabela, Z. (2025). ALTERNATIF PENYELESAIAN SENGKETA (APS). *Jurnal Ekshis*, 3(1), 95-111.

⁴ Erna Dewi, E. (2021). Mediasi Pidana Sebagai Alternative Penyelesaian Perkara Pidana Berbasis Kearifan Lokal.

considered a repressive act that lowers investor confidence. While Article 2 of Law No. 14 of 2002 affirms the principle of fast, simple, and low-cost dispute resolution, the reality of criminal justice actually causes a long, expensive, and stigmatized process.⁵ The psychological effects of criminalization can damage a corporation's reputation even though in the end the case is won by the taxpayer. These reputational losses are difficult to recover because they are related to public perception and international business relations. Business law views legal certainty as an important capital for the sustainability of the company, so a repressive approach is considered counterproductive. Tax disputes that should be resolved through administrative mechanisms have the potential to plunge business actors into criminal snares that damage economic stability. This argument shows the urgency of considering ADR as a more proportionate dispute resolution instrument.

The Alternative Dispute Resolution (ADR) mechanism offers a different paradigm in tax dispute resolution because it emphasizes the principles of consensual, collaborative, and win-win solutions. Although it has not been explicitly accommodated in Law No. 14 of 2002, the essence of ADR is in line with the principles of certainty, fairness, and efficiency that are the goals of resolving tax disputes. Mediation or negotiation can be a means to mitigate prolonged conflicts between taxpayers and fiscal authorities without creating criminal stigma. The mechanism is also more flexible because it allows the preparation of agreements that pay attention to the business conditions of taxpayers while maintaining the interests of state revenue. From a business law perspective, this flexibility supports the principle of business sustainability by reducing the cost of legal transactions that usually burden companies in lengthy disputes. Dispute resolution through ADR can also improve the relationship between taxpayers and fiscal authorities, which is an important element in building voluntary compliance. The integration of ADR in tax law will enrich the legal instruments available to the parties to seek justice. Thus, ADR not only complements the formal judicial system, but also optimizes the effectiveness of tax law.

The Tax Court's decision, which according to Article 77 of Law No. 14 of 2002 is final and has permanent legal force, shows that there is a limited legal space for taxpayers.⁶ A final decision does guarantee certainty, but it also closes the possibility of further correction if the judicial process is felt to not meet the sense of justice. This condition can create a legal dilemma because taxpayers are bound by judgments that may not take into account the dynamics of the ongoing business. ADR exists as an alternative that allows for more flexible settlement before the dispute enters the litigation stage, thereby minimizing the impact of a final judgment that can no longer be challenged.⁷ With the existence of a dialogue space through ADR, both parties have the opportunity to accommodate their respective interests in a balanced manner. Business law emphasizes the principle of adaptability in conflict resolution, which is more likely to be achieved through negotiation than rigid judicial processes. Without alternative instruments, the tax dispute resolution system risks being rigid and detrimental to business actors. ADR

⁵ Meliala, N. M., & Sahlepi, M. A. (2024). Penerapan Restorative Justice oleh Pengadilan Negeri Medan untuk Mewujudkan Kepastian Hukum dalam Penyelesaian Tindak Pidana. *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)*, 4(3).

⁶ Samosir, M., & Gunawan, Y. (2024). Analisa Yuridis Sengketa Pajak Pada Pengadilan Tata Usaha Negara Terhadap Surat Ketetapan Pajak Studi Kasus Putusan Pengadilan No 606 K/Tun/2022. *Jurnal Studi Akuntansi Pajak Keuangan*, 2(1), 8-22.

⁷ SAIDI, M. A. A. (2025). *EFEKTIVITAS PENERAPAN RESETORATIVE JUSTICE DALAM PENYELESAIAN PERKARA PIDANA DI WILAYAH HUKUM POLRES SERANG BANTEN* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

integration is crucial to bridge the gap between the finality of decisions and the need for flexibility in the business world.⁸

The cost efficiency aspect is also one of the important factors that confirms the advantages of ADR over litigation. The process of proceedings in the Tax Court as stipulated in Article 41 of Law No. 14 of 2002 does allow the presence of legal representatives, but this creates an additional cost burden for the taxpayer who is litigating. The high costs in the litigation process not only include advocate fees, but also include the company's operational costs that are delayed due to the focus on legal disputes. More informal ADR allows for a reduction in the cost of legal transactions, as the negotiation and mediation mechanism can be done more simply. From a business law perspective, the efficiency of legal costs will increase the company's resilience to the risk of disputes. The availability of cheaper and faster mechanisms encourages companies to resolve disputes without having to sacrifice liquidity. This efficiency also supports the principle of business sustainability which is the orientation of modern business law. Thus, ADR plays a role not only as a legal instrument, but also as a corporate risk management strategy.

An evaluation of the effectiveness of ADR compared to criminal justice needs to be positioned within a business law framework that emphasizes certainty, efficiency, and sustainability.⁹ Law No. 14 of 2002 provides a legal basis for tax justice, but not all of them are able to answer the practical needs of the fast-moving business world and demand flexibility. ADR can complement the normative framework by providing a more adaptive, participatory, and efficient resolution space. With the existence of ADR, the purpose of tax law to create legal certainty and fiscal justice can be realized without sacrificing economic stability.¹⁰ Business law requires dispute resolution that is not only formal, legal, but also functionally effective for the business world. Research on the effectiveness of ADR will show the extent to which this mechanism can reduce the tension between state interests and corporate sustainability. A comprehensive study is important to assess the contribution of ADR as a legal instrument that is in line with the principles of the Tax Court Law. With such an approach, ADR can be positioned as a strategic instrument in the modernization of national tax law.

METHOD

This research uses a normative juridical method, namely legal research that is based on applicable positive legal norms, legal doctrines, and relevant legal principles to analyze the effectiveness of tax dispute resolution. The normative juridical approach was chosen because the focus of the study was directed at the comparison of litigation mechanisms through tax courts as stipulated in Law of the Republic of Indonesia Number 14 of 2002 concerning Tax Courts with non-litigation mechanisms in the form of Alternative Dispute Resolution (ADR) in the perspective of business law.

⁸ SUGIHARTO, D. Eksistensi Pembinaan Pengadilan Pajak Di Dalam Sistem Peradilan Di Indonesia. *Jurnal Hukum Prodi Ilmu Hukum Fakultas Hukum Untan (Jurnal Mahasiswa S1 Fakultas Hukum) Universitas Tanjungpura*, 1(2).

⁹ Musaffa, M. U. A. (2025). Optimalisasi Penyelesaian Sengketa dalam Perspektif Hukum Islam dan Sistem Hukum Indonesia: Studi Komparatif antara Litigasi dan Alternative Dispute Resolution (ADR). *Az-Zarqa': Jurnal Hukum Bisnis Islam*, 8(2).

¹⁰ Mubila, A. M. (2025). IMPLIKASI HUKUM BISNIS ATAS KEBIJAKAN PAJAK: KAJIAN TERHADAP KEADILAN DAN EFISIENSI FISKAL. *JUDAKUM: JURNAL DEDIKASI HUKUM*, 4(1), 21-31.

Normative research aims to examine and understand how the law should apply (*das sollen*), not how the law is practiced in empirical reality (*das sein*), so that the entire analysis process relies on primary and secondary legal materials that are textual and conceptual.¹¹

As explained by Peter Mahmud Marzuki, normative legal research is a method that focuses on the study of legal materials as the main object of study, by interpreting and constructing applicable laws to answer certain legal issues.¹² According to Marzuki, this approach is prescriptive because it aims not only to describe the law, but also to provide normative arguments for the validity of a legal action or act in the legal system adopted.¹³ Meanwhile, Soerjono Soekanto and Sri Mamudji stated that normative legal research includes research on legal principles, legal systematics, legal synchronization, legal history, and comparative law.¹⁴

The type of data used is secondary data, which consists of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and regulations, especially Law No. 14 of 2002, which regulates the authority of the Tax Court, procedural procedures, dispute resolution principles, and the final and binding nature of court decisions. Secondary legal materials include legal literature, journal articles, and previous research results on the effectiveness of ADR in resolving tax and business law disputes. Tertiary legal materials in the form of legal dictionaries and encyclopedias are used to strengthen the understanding of legal terminology.

The approaches used are statute approach, conceptual approach, and comparative approach. The statute approach is carried out by examining in depth the provisions in Law No. 14 of 2002, especially Article 2 on the principle of fast, simple, and low cost, Article 31 on the authority of the Tax Court, Article 43 on the deadline for judgments, and Article 77 on the final and binding nature of decisions. The conceptual approach is used to understand the concept of ADR in relation to business law and taxpayer legal certainty. The comparative approach is used by comparing the effectiveness of dispute resolution through litigation in the Tax Court with the ADR mechanisms that are developing in business practice.

The analysis technique used is qualitative analysis, which is to delineate, interpret, and examine legal norms relevant to tax disputes to assess the effectiveness of the available settlement mechanisms. The analysis was carried out by assessing the conformity of the principles in Law No. 14 of 2002 with the principles of efficiency, legal certainty, and business sustainability which are the orientation of business law. From this analysis, legal arguments will be drawn regarding the advantages and limitations of litigation mechanisms as well as the potential of ADR as a more effective instrument for resolving tax disputes.

¹¹ Novea Elysa Wardhani, Sepriano, and Reni Sinta Yani, *Metodologi Penelitian Bidang Hukum* (Jambi: PT. Sonpedia Publishing Indonesia., 2025).

¹² Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2011).

¹³ Mahlil Adriaman et al., *Pengantar Metode Penelitian Ilmu Hukum* (Padang: Yayasan Tri Edukasi Ilmiah, 2024).

¹⁴ Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah," *Jurnal Ilmiah Ekonomi Islam* 8, no. 3 (2022): 2859, <https://doi.org/10.29040/jiei.v8i3.6485>.

DISCUSSION

1. The Effectiveness of Tax Justice as a Litigation Mechanism in a Business Law Perspective

The effectiveness of tax justice as a litigation mechanism from a business law perspective can not only be measured through normative provisions that govern the authority and finality of decisions, but also through practical indicators that affect the business climate. The legal certainty promised through a final and binding decision will only be meaningful if the process that precedes it is able to provide a settlement in a reasonable time, at a proportionate cost, and maintain the principle of fairness between taxpayers and the fiscal authorities. The inability to meet these indicators has the potential to erode the institutional legitimacy of tax justice in the eyes of business actors, although formally the law still recognizes it as the only litigation forum in tax disputes. This reflects the tension between the legal certainty promised by the law and business certainty which is a practical need in the business world.

From a business law perspective, delays in resolving tax disputes have broader consequences than just fiscal aspects. Companies facing protracted disputes must allocate financial resources for litigation costs, establish significant accounting reserves, and bear reputational risks that could affect stock value and investor confidence. This uncertainty ultimately affects the investment behavior of both domestic and foreign investors, which requires the predictability of the legal regime. Therefore, the effectiveness of the tax court must be understood not only as an instrument for resolving fiscal disputes, but also as one of the key factors in maintaining the investment climate and national economic competitiveness.¹⁵

The link between the effectiveness of tax justice and the principle of good governance in business law cannot be ignored either. Tax courts that are transparent, accountable, and responsive to the needs of business actors will strengthen a positive perception of legal certainty in Indonesia.¹⁶ On the other hand, practices that exhibit excessive formality, protracted processes, or a lack of procedural innovation will be considered as structural obstacles to creating a conducive business climate. Thus, the effectiveness of the tax court is not only a technical issue of procedural law, but also part of the politics of national law in creating a tax system that is in line with the needs of economic development.

The development of information technology opens up opportunities for tax courts to increase their effectiveness through the implementation of the digitalization of the judicial system. The use of e-courts, database integration between the Directorate General of Taxes and the Tax Court, as well as the publication of online-based judgments can reduce administrative delays and improve accessibility. Digitized transparency of judgments allows business actors to obtain a predictive picture of the direction of jurisprudence, so that business planning can be carried out in a more measurable

¹⁵ Afiyati, R., ANSHARI SETIA NEGARA, T., & KOESWAHYONO, I. (2022). Tax dispute settlement mediation arrangements in the future tax court. *International Journal of Legal Sciences*, 10(17-18), 84-95.

¹⁶ Fadhli, A. R. (2025). The Role Of The Tax Court In Resolving Tax Disputes: An Analysis Of The Effectiveness And Transparency Of The Legal Process. *Fox Justi: Jurnal Ilmu Hukum*, 15(02), 263-274.

manner.¹⁷ Thus, digitalization serves not only as a technical instrument, but also as a juridical instrument that strengthens the principles of openness and efficiency in tax justice.

A comparative perspective also shows that many countries with modern tax systems have undergone institutional reforms to address the needs of the business world. Some jurisdictions develop tax tribunals with summary procedures for low-value disputes or those with simple legal issues. There is also a hybrid model that incorporates mandatory mediation before the case enters the full litigation stage, thus significantly reducing the burden on the court. The adoption of such practices can serve as a reference in strengthening the role of the Indonesian tax courts, without compromising the principle of finality of decisions that characterize this forum.

Finally, the effectiveness of tax justice must be placed within the grand framework of the relationship between legal certainty, substantive justice, and economic efficiency. Legal legitimacy alone is not enough if it is not accompanied by speed and affordability in line with the dynamics of the business world. Institutional, procedural, and technological reforms must be directed to make the tax court a forum that is not only legally final, but also economically final in the sense of providing certainty that can be immediately used by business actors¹⁸ Thus, the tax court can function optimally as an instrument of legal protection as well as a driving force for business stability in Indonesia.

2. The Potential of Alternative Dispute Resolution (ADR) in Ensuring Legal Certainty and Efficiency

The potential of Alternative Dispute Resolution (ADR) in tax disputes can be understood through two main approaches, namely a normative approach that relies on positive legal principles and a pragmatic approach that emphasizes efficiency and certainty of resolution. Article 2 of Law Number 14 of 2002 which contains the principles of fast, simple, and low cost is a significant conceptual basis for integrating ADR in the realm of taxation. Although the law does not explicitly regulate ADR, it provides moral and juridical legitimacy that dispute resolution must avoid excessive formalities that create uncertainty. The principle can also be interpreted as a mandate for policymakers and judicial institutions to pursue a more adaptive dispute resolution model.¹⁹ In this framework, ADR exists not as an instrument to replace formal justice, but as a complementary tool that is tasked with complementing the litigation mechanism in order to maintain a balance between legal certainty and substantive justice.

Normatively, the application of ADR in tax disputes must be aligned with the principles of legality, legal certainty, and public interest inherent in tax law. Tax disputes differ from purely civil disputes because they are closely related to public norms and the fiscal interests of the state. Therefore, ADR cannot be operated absolutely freely without a legal framework that limits its scope and procedures. Legal certainty can only be guaranteed if the outcome of the settlement of ADR has clear executory power and can be accounted for administratively or judicially. This requires strict regulation of the form of peace agreements, the authority of fiscal officials that can bind the state, and a

¹⁷ UMENWEKE, M. N., & Amadi, N. B. (2023). TAX ADJUDICATIVE MECHANISM; A CRITIC OF THE INTERVENTION OF TAX APPEAL TRIBUNAL. *Unizik Law Journal*, 18.

¹⁸ Rosalina, F. R. (2024). Efektivitas Pengadilan Litigasi dalam Penyelesaian Sengketa Bisnis. *Journal of Legal Sustainability*, 1(1), 32-38.

¹⁹ Nga, P. T. (2022). Alternative Dispute Resolution (ADR): A new trend of economic conflicts settlement. *ADR Strategies: Navigating Conflict Resolution in the Modern Legal World*, 70.

mechanism for validating the results of ADR. Without such clarity, the outcome of settlement through ADR has the potential to give rise to new disputes, either due to doubts over the validity of the agreement and due to inconsistencies with higher public norms.

From an institutional perspective, ADR in tax disputes can be realized through various models such as mediation, administrative conciliation, structured negotiations, and limited factual settlement forums.²⁰ Each model has specific characteristics that must be adapted to the needs of tax disputes. Mediation allows for the involvement of a neutral third party to facilitate the deal, while negotiation places more emphasis on the flexibility of direct interaction between taxpayers and fiscal authorities. In order for this mechanism to have legitimacy, rules are needed regarding the competence of mediators, binding written documentation obligations, and the principle of transparency that maintains a balance between the confidentiality of the process and the public interest.²¹ Another crucial element is the authority of state officials who act as fiscal representatives in agreeing on the results of ADR. Without a clear attribution of authority, ADR results are susceptible to being considered ultra vires and can be re-sued through litigation mechanisms.

The advantage of ADR over formal litigation lies in the flexibility and efficiency it generates. A participatory process allows the parties to formulate a settlement that is more in line with real conditions, such as setting a schedule for the payment of tax obligations, reducing administrative fines within the framework of legitimate discretion, or resolving liability calculation disputes by presenting new evidence. Such a settlement not only reduces the burden of tax justice but also minimizes the potential for protracted conflicts that disrupt the relationship between the fiscal and taxpayers. Thus, ADR makes a direct contribution to the stability of legal relations between the state and society and supports the principle of business sustainability, because taxpayers are not burdened with negative stigmas that are often inherent in criminal proceedings or formal litigation that are confrontational in nature.

However, the application of ADR in tax disputes contains a number of potential obstacles that must be anticipated through a strict regulatory framework. An imbalance in the bargaining position between the state and taxpayers can raise the risk of unfair agreements or pressure on weaker parties. The inherent secrecy in ADR also has the potential to hinder the formation of jurisprudence that is essential for general legal certainty. In addition, without a monitoring and accountability mechanism, ADR can open up opportunities for abuse of authority or even corruption, because the results of the agreement do not go through an open public testing process. Disputes concerning the interpretation of pure legal norms or principles of public policy are usually more appropriately resolved through formal courts, since only the judicial body has the authority to give an erga omnes binding interpretation of law.²²

Therefore, the existence of ADR in tax disputes requires a comprehensive regulation that regulates the scope, procedures, and supervision mechanisms. The regulation must at least include the definition of disputes that can be resolved through

²⁰ Aman, S. (2025). Cross-Border Alternative Dispute Resolution (ADR): Opportunities and Challenges. *Journal of Asian Development Studies*, 14(2), 1113-1120.

²¹ Putra, A. W., Setyowati, R. F., Prananda, R. R., & Saptono, H. (2020). Online Dispute Resolution (ODR) dalam Sengketa Investasi Pasar Modal Syariah di Indonesia. *Jurnal USM Law Review*, 3(2), 235-258.

²² Panatagama, A. D. S., & Fuadi, M. I. N. (2023). Alternatif Dispute Resolution Dengan Asas Pacta Sunt Servanda Dalam Mediasi Penyelesaian Konflik Pertanahan. *Al-'Adalah: Jurnal Syariah dan Hukum Islam*, 8(2), 252-272.

ADR, the competency standards of mediators, the obligation of fiscal officials to obtain written consent before agreeing on the outcome of ADR, and a mechanism for the summary publication of settlement results that maintain the confidentiality of personal data. Arrangements regarding the deadline for dispute resolution, the procedure for the execution of peace agreements, and sanctions for violations of the agreement are also important to provide stronger legal certainty. With such an arrangement, ADR can function as a means of resolving disputes that are in line with the principle of efficiency while remaining within the corridor of public legal interests.

A normative approach that views ADR as an integral part of the tax legal system must ultimately affirm that ADR is not just a pragmatic instrument to reduce the burden on the courts, but a mechanism that expands access to justice, strengthens legal certainty, and optimizes the balance between the state's fiscal interests and the rights of taxpayers. When designed and implemented with strict procedures, ADR has great potential to enhance the legitimacy of tax law, strengthen taxpayers' voluntary compliance, and support national legal development goals oriented towards justice, utility, and legal certainty.

3. Harmonization of Law No. 14 of 2002 with Business Law Principles through ADR Integration

Law No. 14 of 2002 establishes the Tax Court as a special judicial body tasked with examining and deciding disputes in the field of taxation; The procedural provisions are designed to ensure a formal and adjudicative examination. The existence of the special court requires judicial officers who have substantive expertise in taxation, but the adversarial dispute handling format and the conception of final decisions create tension with the need for a fast, economical, and minimized operational disruption. The provision on the finality of the decision in practice puts the Tax Court's decision in a very decisive position regarding the final status of the dispute, so that the choice of rigid procedure has implications for the length of settlement and the cost of litigation.²³

The procedural aspects of regulation in Law No. 14/2002 need to be analyzed from the perspective of the public interest (sovereign interest) and the private interests of business actors. The norm that regulates that lawsuits do not delay or obstruct the implementation of tax collection represent the priority of the state's fiscal function over the guarantee of continuity of revenue; This normative effect has real implications on the taxpayer's bargaining power and on the settlement options that can be pursued before and during the litigation process. The provision emphasizes that the tax settlement mechanism is not solely contractual between the parties, but is contingent on the principle of legality and the state's authority over revenue.²⁴

Comparative norm analysis shows that ADR instruments including structured negotiations, administrative mediation, and hybrid forms such as med-arb can meet the expectations of business law principles: faster certainty through binding agreements, reduced litigation costs, and minimal disruption of the company's operational continuity. Academic literature as well as comparative case studies state that mediation at the examination or objection stage has the potential to result in a *win-win* solution without sacrificing legal legitimacy, as long as it is framed with elements that ensure openness,

²³ Kalianda, H. K. (2020). Problematika Pengaturan Persaingan Usaha Dalam Sistem Hukum Indonesia. *Wasaka Hukum*, 8(1), 1-82.

²⁴ Rasool, A. R. A. (2022). Harmonizing Tradition with Modernity: Analyzing the Evolution of Mediation in Pakistan's Legal Landscape. *Indus Journal of Law and Social Sciences*, 1(2), 1-4.

accountability, and compliance with public norms. Implementation of ADR in tax disputes in other countries (e.g. United Kingdom, Australia) demonstrate practical benefits while demanding technical regulation of the scope and binding power of the settlement.²⁵

In terms of national legal instruments, there are two main normative obstacles. First, the general ADR rules (as stipulated in the arbitration law/ADR) have not expressly regulated or opened up space for the settlement of disputes concerning fiscal authority and state interests, so it is necessary to study the feasibility of applying arbitration or settlement that is absolutely binding on fiscal claims. Second, procedural adaptation in the judicial environment must consider the judicial regulations that regulate mediation as well as the authority of the Chief Justice/Tax Court to formulate procedures for the implementation of mediation in accordance with the character of tax cases. Supreme Court regulations on mediation and internal regulations of the Tax Court can be a gradual implementing framework before substantive legislation changes are made.

The framework for concrete harmonization can be formulated in several groups of norms and mechanisms: (a) the pre-litigation phase strengthens ADR at the objection/administrative level through a mediation mechanism facilitated by tax administration officials or independent mediators; (b) the initial litigation phase introduces integrated court mediation which is held according to the guidelines of the Regulation of the Chief Tax Court, with the results of mediation that can be expressed in the form of administrative decisions or agreements that have limited executory effect; (c) the limitation of scope confirms that ADR can handle disputes of a material civil/financial nature, while issues concerning criminal tax compliance or elements of serious violations are not within the domain of ADR; (d) the cancellation and supervision mechanism provides limited judicial review rights to ensure that there is no disregard of public norms or principles of legality in the outcome of ADRs. The implementation of the model should include standards of mediator ethics, clear rules of evidence, and oversight mechanisms to prevent potential abuse.²⁶

In order to maintain legal certainty and the protection of state interests, harmonization requires simultaneous changes to the following rules: adjustment of norms in Law No. 14/2002 (or addition of implementing provisions) that recognize the status of ADR proceeds in relation to the tax justice process; amendments to the tax procedures regulations (KUP) that regulate the administrative impact of ADR settlements on billing and bookkeeping rights; and the provision of a regulatory mandate to the Tax Court to regulate and supervise mediation practices related to tax disputes. The model legislation should require adherence to the principles of openness, fiscal accountability, non-discrimination, and third-party protection. Empirical evidence and academic studies support the idea that gradual reforms that begin with mediation pilots in certain categories of disputes are more feasible than procedural transformations that directly simplify the finality of decisions without administrative protection.

The criticality of harmonization lies in the balance between two goals: facilitating the certainty and efficiency needed by business actors, and maintaining the supremacy of the country's fiscal law. Therefore, any ADR integration must explicitly formulate the

²⁵ Hidayah, K. (2018). Mediation for Indonesian Tax Disputes: Is It a Potential Alternative Strategy for Resolving Indonesian Tax Disputes?. *Indon. L. Rev.*, 8, 154.

²⁶ Sa'adah, N., Ispriyarso, B., Wibawa, K. C. S., Wibawa, L. K. P. S., & Wibawa, M. I. S. S. (2024). Feasibility Analysis Of Implementing Alternative Dispute Resolution In Tax Dispute Settlement In Indonesia. *Pandecta Research Law Journal*, 19(2), 686-701.

parameters of legality (material scope), the legal consequences of the billing obligations, as well as audit and transparency mechanisms that ensure the integrity of the settlement process. This kind of reform not only improves dispute resolution tools but also increases the legitimacy of tax administration in the eyes of business actors so as to contribute to long-term voluntary compliance.

Brief conclusion: the harmonization of Law No. 14/2002 with business law principles through the integration of ADR is not just the adoption of alternative techniques, but the reconstruction of the tax dispute settlement architecture that synergizes economic effectiveness with juridical validity. The implementation of harmonization must rely on a strong legal basis, strict scope limitations, and procedural guarantees so that public goals and legal certainty for the business world can go hand in hand.

CONCLUSION

The effectiveness of tax justice from a business law perspective demands a balance between legal certainty, efficiency, and protection of the country's fiscal interests. Legal certainty realized through the finality of the decision will lose its meaning if the process is protracted and creates an excessive cost burden. The business world needs a quick and proportionate settlement so that business activities are not disrupted by the uncertainty of disputes. Tax courts that are too formalistic can weaken legitimacy in the eyes of business actors even though they are still normatively recognized. Therefore, effectiveness must be seen not only from a procedural point of view, but also from its impact on the investment climate and national economic stability. Digitization of the judiciary, transparency of judgments, and procedural reform are strategic steps to speed up processes and increase accountability. The integration of Alternative Dispute Resolution (ADR) in the pre-litigation and initial litigation phases offers an outlet to reduce the burden on the court and present a win-win solution. A strictly regulated ADR model can strengthen legal certainty while maintaining substantive justice for taxpayers. However, its existence must be subject to the principles of legality and supervision mechanisms so as not to create a loophole for abuse. The harmonization of Law No. 14 of 2002 with the principles of business law needs to be focused on adaptive and efficient procedural arrangements. Institutional reform that pays attention to ethical standards, the authority of fiscal officials, and the limits of the scope of disputes are absolute requirements for success. Thus, the tax court can function optimally as an instrument of legal protection as well as a driving force for business stability and tax compliance.

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