

ABSTRACT

The title of this dissertation is "Tax Court in the Indonesian Judiciary under the 1945 Constitution", which is also the central theme of this writing. This central theme consists of three levels of jurisprudence issues. First, in the dogmatic level, it is raised a legal issue of whether or not Act No. 17 of 1997 on Tax Dispute Resolution Agency is consistent with articles 24 and 25 of the 1945 Constitution in conjunction with Act No. 14 of 1970, Act No. 35 of 1999, and Act No. 14 of 1985. Second, in the theoretical level, two problems have been posed in that whether or not tax court institution is separate and independent from any other judicial agencies and whether or not the 1945 Constitution enables tax court agency to be exempted from Supreme Court jurisdiction. Third, in the philosophical level, it is reflected two basic questions in that whether or not the existence of tax court agency in Indonesia is given spirit and based upon the idea of law provided in the 1945 Constitution and in essence, whether or not the tax court agency in Indonesia is independent court.

The purpose of this research is to find out of how the tax court in Indonesian judiciary under the 1945 Constitution really works. Then, it is to identify legal concept dealing with the status of tax court agency in judicial power in Indonesia, management of tax court agency and the status the judges thereof, and proceedings in Tax Dispute Resolution Agency. This research is expected to produce both theoretical and practical contribution in developing tax law. In addition, this also furnishes government with ideas in collecting money from tax sector successfully into state treasury and at the same time considering comprehensive legal protection and justice for taxpayers. The type of this research is normative research that uses four models in approaching the problems in that statutory approach, conceptual approach, historical approach, and comparative approach whose respective application is called as required by the theory of coherence truth (interdependency).

From this research, it can be concluded that:

- a. The existence of Act No. 17 of 1997 is inconsistent with articles 24 and 25 of the 1945 Constitution in conjunction with Act No. 14 of 1970, Act No. 35 of 1999, and Act No. 14 of 1985.
- b. Tax Dispute Resolution Agency is relevantly granted a special status as independent and separate tax court from any other judicial agencies but it should be under the judicial power as specific court whose highest appellate court is Supreme Court.
- c. Basically, the 1945 Constitution does not enable Tax Dispute Resolution Agency to be exempted from Supreme Court jurisdiction.
- d. Tax Dispute Resolution Agency is not given spirit and based upon the idea of law provided in the 1945 Constitution and in addition, legal redress through the Agency is not accomplished.
- e. In essence, Tax Dispute Resolution Agency in Indonesia is not independent court.
- f. Basically, Tax Dispute Resolution Agency is the continuation of the Tax Appellate Council.

Based on the findings and conclusion, it is recommended that Act No 17 of 1997 be revised, in which tax dispute institution be in the form of independent specific court under judicial power jurisdiction that refers to Supreme Court as the highest appellate court.

Key words : tax court, judiciary, independent court.