



Monthly Newsletter

# Under The New Reign of the Supreme Court

Tax Court preparations and adaptation under the authority of the Supreme Court



July 2023

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# Tax Attorney: Are They Becoming One of the Changes Within the Tax Court?

The Tax Court is an institutional agency that settles tax disputes between Taxpayers and Tax Office. The Tax Judge has a self-governing authority and independency which could determine a tax dispute trial results. The tax court will receive guidance from the Supreme Court, where the one-roof system from the Supreme Court will be adapted in carrying out its duty as the guide for the independent judiciary.

Shaheila Roeswan

# Tax Attorney: Are They Becoming One of the Changes Within the Tax Court?

by Shaheila Roeswan

The Tax Court is an institutional agency that settles tax disputes between Taxpayers and Tax Offices. The Tax Judge has a self-governing authority and independency which could determine a tax dispute trial results. The tax court itself is a part of the national judiciary according to the 1945 Constitution of the Republic of Indonesia.

The organization, administration, and financial guidance for the tax court were once held by the Ministry of Finance. However, this condition is considered a deviation from the regulation written in the 1945 Constitution of the Republic of Indonesia, which mentions that the Supreme Court should be the institution that provides organization, administration, and financial guidance for the tax court. This is why the stipulation entailing the guidance for the tax court is then challenged by the Constitutional Court.

Now, the tax court will be an independent judiciary, where its operation will not be governed by the Ministry of Finance, as now the tax court will receive guidance from the Supreme Court, where the one-roof system from the Supreme Court will be used in carrying out its duty as the guide for an independent judiciary.

What changed due to the changes in guidance role from the Ministry of Finance to the Supreme Court? What aspects could potentially be changed in regard to tax court regulations? Let's first understand what is the Tax Court, how it works, and which parties are related to a tax dispute trial.

## What is a Tax Court and how does it work?

As mentioned beforehand, the Tax Court is a judiciary agency that performs judicial duties for taxpayers or tax insurers seeking justice for their tax disputes. This description of tax court follows the one in Law Number 14 Year 2002 or also known as The Tax Tribunal Law.

The parties that are related to the Tax Court, for example, are taxpayers, tax attorneys, or other parties which are in tax disputes. In general, the tax court has its own tasks and authorities to check and decide the results of a tax dispute.

A taxpayer, tax heir, or legal counsel can apply for an appeal request to the tax court for tax disputes. The tax attorney itself usually is a person that has certain knowledge and experiences in the taxation field, for example, for people that have completed an education and earned a bachelor's in fiscal administration, accounting, and/or taxation, with other additional capabilities, who can accompany or represent certain parties during dispute proceedings in the tax court.

## What are the requirements to become a Tax Attorney?

A person can be approved as a tax attorney if they fulfill certain requirements mentioned in the Ministry of Finance Regulation Number 184/PMK.01/2017 regarding the Requirements to be Tax Attorney..The following are the requirements that should be fulfilled in order for the tax court to grant the approval for the legal counsel permit application. Based on the mentioned regulation, it states that:

- 1 To obtain a license as a tax attorney, one must fulfill a bachelor's studies within the field of fiscal administration, accounting, and/or taxation
- 2 Application is completed with an associate taxation diploma (D3), tax brevet, or experience working in tax technical government agencies
- 3 Submit a complete application along with the documents mentioned to the Secretariat of the Tax Court

As we can see from the requirements, a tax attorney must have an educational background in the field of fiscal administration, accounting, or taxation. Although the job of a tax attorney is to give advice and provide assistance in order to resolve tax disputes in the tax court, it is not mandatory for a tax attorney to have an educational background in law.

Based on Article 34 paragraph (2) of Law Number 14 Year 2002 regarding the Tax Court, the Ministry of Finance has the authority to determine the requirements to be a tax attorney. However, this was regulated when the Ministry of Finance was the party that provides organization, administration, and financial guidance for the tax court. Since the changes in guidance, there are no clear updates regarding the Ministry of Finance's authority to revoke tax attorney permits.

## Is it mandatory for a Tax Attorney to become an Advocate?

The change in the organization, administration, and financial guidance role from the Ministry of Finance into the Supreme Court prompts a question on regulation changes that will affect the performance of the tax court. One of them is the question: should a tax attorney become an advocate before being granted a permit?

First, let us see the definition of an advocate. An advocate or legal advocate is, based on Law Number 18 Year 2003 regarding Advocates or the Advocates Law, a person with a bachelor's degree in the field of Law and after finishing their degree then finished an advocate profession special education carried out by Advocate Organizations. A few of the professionals that can be considered legal advocates are advocates, legal advisers, lawyers, and legal consultants.

However, tax attorneys are the parties that will be providing assistance to taxpayers to resolve their tax disputes. Following the explanation in the section before, a tax attorney must be someone that fulfilled an education within the field of fiscal administration, accounting, and/or taxation, and also has received certain tax certifications or have work experience in the taxation field.

**It can be concluded that a tax attorney is not required to be or was previously a legal advocate since the nature of the dispute is unique to tax field.**

Based on this explanation, it can be concluded that a tax attorney is not required to be or was previously a legal advocate. This is due to the different requirements for these two types of positions. Where to become an advocate, one needs an educational background in legal, whereas to become a tax attorney, one needs an educational background and also a job in fiscal administration, accounting and/or taxation. In addition, the nature of the dispute that is handle by tax attorneys are different and unique to the taxation field.

However, an advocate can become a tax attorney as long as they meet the requirements and has submitted an application that is approved by the Secretariat of the Tax Court. Since the transfer of guidance authority to the Supreme Court, there have been no other regulations stipulating that a person must become an advocate before becoming a tax attorney.

**Read our interview with stakeholders surrounding this issue on our August 2023 Newsletter.**



# Monthly Highlights

News and Events in July 2023

# Monthly Highlights

News Summary for July 2023



Photo credit by nomadsoulphotos

*Benefit in-kind tax imposition has been regulated through the Ministry of Finance Regulation No. 66 Year 2023*

## **PMK 66/2023 Issued, Regulates Benefit In-kind Tax**

The long-awaited regulation regarding benefit In-kind tax has been issued by the government in July 2023.

Through the Ministry of Finance Regulation (PMK) Number 66 Year 2023, the government regulates the imposition of income tax article 21 on benefit in-kind given by employers to their employees.

This regulation acts as a legal basis to impose an income tax and ensure that benefit in-kind is considered as income for the employees.



Click here (or the title) to read the full article on our website.



# Monthly Highlights

News Summary for July 2023



Photo credit by freedomz

*“A taxpayer compliance committee is planned to be appointed to ensure compliance from all taxpayers.”*

## **The Directorate General of Taxes Plans to Appoint a Taxpayer Compliance Committee**

The Directorate General of Taxes has expressed its interest in developing a committee that will be focused on ensuring taxpayers' compliance, whether they are High-Wealth Individuals (HWI) or ordinary taxpayers.

This committee is created in regard to the tax reformation that is currently being led by the development of core tax administration system (CTAS).



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# Monthly Highlights

News Summary for July 2023



Photo credit by Oksana Krasiuk

*“The CTAS, as part of Indonesian tax reformation, is in the testing phase and is planned to be launched on May 2024.”*

## **CTAS Currently in Testing Period, Planned to be Fully Implemented on May 2024**

The development of the core tax administration system (CTAS) has currently reached its final stages. The Directorate General of Taxes 'spilled' that the system is planned to be nationally implemented in May 2024.

The system is currently in its testing period, and the Directorate General of Taxes is currently training a master to train all other authorities. In addition, the system is said to be tested to 3 (three) regional offices before national implementation.



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# Monthly Highlights

News Summary for July 2023

*The first semester of 2023 managed to collect tax revenue with an amount of IDR970.2 T.*



## Tax Revenue Amounts to IDR970.2 T for the First Semester of 2023

The Ministry of Finance Republic of Indonesia reported an amount of IDR970.2 T for the tax revenue until June 2023 or for the first semester of 2023.

This number is equivalent to about 56.47% of the total target mentioned in the National State Budget 2023. The biggest contributor for this revenue is still held by Non-oil and gas income tax with a tax revenue of IDR565.01 T.

However, the government warns that the second semester of 2023 may have a lower tax revenue in comparison to the semester before due to lower commodity prices and normalization of tax regulations.



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# Monthly Highlights

News Summary for July 2023



Photo credit by JJ Gouin on Getty Images

*“Prepopulated annual tax returns is planned to be implemented in 2024 as part of CTAS.”*

## Annual Tax Returns will be Prepopulated in 2024 Following CTAS Implementation

The government plans to implement prepopulated annual tax returns for taxpayers as part of the core tax administration system that will be implemented in 2024.

The prepopulated annual tax returns will only prompt taxpayers to review and revise the data in their tax returns, as the data will be automatically filled out using the data taken from the Directorate General of Taxes.

Currently, the new system is planned to be implemented on May 2024, as the government is still preparing the people that will operate the system.



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Tax Calendar

# August 2023

MON	TUE	WED	THU	FRI	SAT	SUN
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17 Indonesian Independence Day	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3
4	5	6	7	8	9	10

## Reminders

- 10 August 2023** Payment Deadline : July 2023 Art. 4(2), 15, 21/26, 22, & 23/26 Income Tax
- 15 August 2023** Payment Deadline : July 2023 Art. 25 Income Tax, SME Final Income Tax, & Self-Assessed VAT
- 17 August 2023** Indonesian Independence Day
- 21 August 2023** Filing Deadline : July 2023 Art. 4(2), 15, 21/26, 22, 23/26, & 25 Income Tax
- 31 August 2023** Payment and Filing Deadline : July 2023 VAT

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