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Urgency Arrangement Mediation in Dispute Tax as Instrument Non-Litigation Alternatives

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ABSTRACT

Dispute tax is a common problem faced by the state and mandatory tax, which can disrupt state revenue and cause uncertainty in law. The settlement process for tax disputes in Indonesia is generally conducted through track litigation in the court Taxes, which often takes a long time, incurs high costs, and causes tension between the parties involved. In response to these challenges, this article studies the urgency of arranging mediation as an alternative for settling tax disputes. Mediation, which is a dispute resolution process outside the court involving a neutral mediator, is hoped to provide more efficient solutions, reduce the burden on the court, and facilitate fairer outcomes for both parties. Through a juridical-normative approach and comparative studies of countries that have implemented mediation in tax disputes, such as the Netherlands, Australia, and the United States, this article highlights the benefits of mediation in the context of taxation. The arrangement of mediation in tax disputes is considered important for increasing the efficiency of tax administration, reducing litigation costs, and creating more constructive relationships between the authority tax and obligation tax. This article also suggests necessary changes and improvements to regulations to support the implementation of mediation in settling tax disputes in Indonesia, in order to realize a more transparent and accountable taxation system.

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INTRODUCTION

In Indonesia, the mechanism for settling tax disputes generally starts with an administrative step in the form of an *object* or *appeal* against tax determinations issued by the authorities. If no agreement is reached, the dispute can proceed to the *Court Tax* (Aji et al., 2022; Hamdani et al., 2023; Purba & Rahadian, 2019; Sa'adah, 2018, 2019). The *Court Tax* is an institution established to handle tax disputes judicially, but the process is often protracted, time-consuming, and costly. This creates obstacles to the efficient settlement of tax disputes, which in turn can disrupt the stability of state finances and reduce tax compliance (Aulia & Marinda Machdar, 2023; Jamilah et al., 2020; Supriyadi & Supriyadi, 2024; Taborda & Sousa, 2023; Tambunan, 2022).

However, in this modern era, legal dispute resolution is shifting toward more efficient alternatives, such as *Alternative Dispute Resolution* (*ADR*). One of the ADR instruments that has been introduced is *mediation*, where a neutral third party assists the disputing parties in reaching an agreement (Albar, 2021; Illankoon et al., 2022; Ojo, 2023; Sopamena, 2022; Subrata, 2023). *Mediation* has been successfully applied in many contexts, including civil, business, and other industries. The concept of mediation offers several advantages over the litigation track, such as a faster and more informal process, lower costs, and the creation of more satisfying solutions for all parties involved.

Tax disputes arise when there is a mismatch or dissatisfaction from taxpayers regarding the amount of tax determined by the *Directorate General of Taxes*, as defined in Article 1 point 5 of *Law No. 14 of 2002* on the *Tax Court* (Basri & Muhibbin, 2022; Bravestha & Hadi, 2017; Maheswara, 2020; Sugiono & Supriyadi, 2021). These disputes typically stem from differences in interpretation of tax regulations, tax audits, objections and appeals, ambiguous rules, and issues related to compliance and enforcement. If left unresolved, tax disputes can negatively impact taxpayers, tax authorities, and the overall taxation system, potentially delaying state revenue, increasing administrative costs, creating distrust, and hindering economic growth. In Indonesia, tax disputes are resolved through administrative procedures starting with an objection, and if rejected, taxpayers may appeal to the *Tax Court*. However, this legal route is often inefficient and burdensome (Erwiningsih, 2022; Gotama et al., 2020; Ispriyarso, 2019; Sa'adah & Wibawa, 2023; Situmeang, 2022).

Therefore, mediation emerges as a viable alternative for resolving tax disputes more efficiently, as it involves a neutral third party facilitating a mutual agreement without imposing binding decisions. Mediation offers benefits such as confidentiality, simplicity, and flexibility—features absent in formal litigation. For mediation to be effective in tax disputes, it must be legally recognized and accessible, with clear procedures, qualified mediators, data protection, and outcomes that, if agreed upon, can become legally binding. Mediation is commonly practiced in countries like the United States (via the *IRS*), Australia (via the *ATO*), and the UK (via *HMRC*), all of which use it to reduce litigation and improve dispute resolution. Suitable tax disputes for mediation are typically administrative in nature and do not involve criminal acts, allowing for win-win solutions through cooperation rather than adversarial judgment.

The mediation process itself involves preparation, opening sessions, presentation of each party's position, identification of issues, negotiation facilitated by the mediator, agreement documentation, and post-mediation implementation supervision. When done correctly, mediation not only resolves disputes more constructively but also enhances long-term relationships between taxpayers and tax authorities, encourages compliance, and upholds fairness in the taxation system.

METHOD

The methodology used in this study was a *juridical-normative* approach and comparative studies. The *juridical-normative* approach analyzed existing legislation related to tax disputes, dispute settlement, and the implementation of mediation within the context of Indonesian law. The

research examined applicable regulations, such as the *Constitution Provision General and Tax Procedures* (*KUP*) and the *Constitution Court Taxes*, to assess how mediation could be integrated into the existing legal system. The analysis identified gaps in current regulations and considered possible changes needed to support the implementation of mediation.

The study also used a comparative approach to examine mediation practices in tax dispute settlement in other countries, such as the Netherlands, Australia, and the United States. It aimed to understand how these countries implemented mediation in tax disputes and how their legal systems supported such practices. By learning from international examples, the study sought to find a model that could be adapted and implemented in Indonesia to increase the effectiveness of mediation in resolving tax disputes.

The method of analysis used in this study was qualitative analysis, focusing on a deep understanding of regulations, legal principles, and existing practices. The author examined relevant literature, legal documents, as well as data and reports related to tax disputes and mediation, to provide a comprehensive analysis of the potential implementation of mediation in Indonesia's legal system.

RESULT AND DISCUSSION

Mediation Model in Completion Dispute Tax

a. Court - Sponsored Mediation Model

Characteristics of this Model:

1) Appointed Mediator Court: Appointed mediators in this model usually own skills in finishing disputes and understanding strong law. Court acts as the organizer who facilitates the mediation process.
2) Process Regulated by the Court: In a number of system laws, the court can oblige the parties to follow mediation before continuing to trial.
3) Advantages: This model can reduce burden court and give incentive for the parties to finish disputes without a long and expensive litigation process.
4) Challenge: This model Possible hampered by limitations source Power court in providing quality mediators or lack of infrastructure for managing the mediation process in a way effective.

b. Mediation Model Independent (Independent Mediation)

Characteristics of this Model:

1) Independent Mediator: This mediator is not bound by decision court and has freedom to assist the parties find mutually beneficial solutions profitable.
2) More Process Flexible: Due to the mediation process This No bound by the rulesformal court, flexibility more given to parties involved for compile mechanism appropriate mediation with need they.
3) Advantages: This model offers more Lots of freedom and control for the parties in determining the way of mediation. This also allows more solutions fast and more cost low.

4) Challenge : If one of the parties does not comply with agreement mediation, the other party must look to track other laws to uphold results mediation.

Mediation Model Managed by Special Institutions (Institutional Mediation)

c. Characteristics of this Model:

1) Mediator Managed by Institution: Organizing institution mediation responsible answer in choosing a mediator who is trained and has required skills.
2) Structured and Regulated Process: This institution often has procedures more mediation standard and more clear, including stages mediation, deadline time, and required documents.
3) Advantages: This model offers a more organized process, with more Lots supervision to the quality of the mediator and the procedures applied.
4) Challenge: Usage institution special need cost addition for administration and implementation. In addition, the success of this model depends heavily on reputation and credibility. institution that manages mediation.

d. Mediation Model (Online Dispute Resolution - ODR)

Characteristics of this Model:

1) Online Mediation: Parties involved in dispute tax can participate in mediation from different locations, using an online platform that allows communication via video call, chat, or tool communication.
2) Advantages: Virtual mediation provides comfort and flexibility for the parties involved.
3) Challenge: One of the challenges from this model is limitations in interaction social and non-verbal which often helps in the mediation process. In addition, the problem is that technical or constrained internet access can hinder the mediation process.

Supporting Policies and Regulations Mediation in Dispute Tax

Legal Regulations That Govern Mediation in Dispute Tax

One of the first things to do to facilitate mediation is formulate clear and firm regulations about mediation in context dispute tax. Regulation This must cover procedures, rights and obligations the parties involved, as well competent authority in appoint a mediator and determine decision end.

Legal Incentives for Use Mediation

For mediation to become a choice mainly for parties involved in dispute tax, the government needs to give incentive to interesting law. Incentives This can be in the form of subtraction fine, acceleration settlement dispute, or convenience in implementation mediation. Without existence clear incentives, parties involved Possible more choose track litigation that is considered more sure.form Incentives That Can Be Given : Reduction Sanctions or Fines, More Settlements Fast, and Legal Certainty in Completion

Provision Facilities and Resources Power for Mediation

For support implementation mediation in dispute tax, the government needs to provide facilities and resources the power required. This includes training for mediators, development of

mediation platforms, and provision sufficient budget for support implementation effective mediation.

Aspect Required Facilities: Mediator Education and Training, Development Digital Infrastructure, Funding and Support Administrative

Law Enforcement on Agreement Mediation

One of the challenges in mediation is ensuring that results mediation can be enforced in a way law. Therefore, it is necessary There are regulations that govern that agreement reached in mediation can be enforced in a way law, same like decision court. Aspect Required Law Enforcement: Validation Agreement Mediation by the Court, and Sanctions for Parties Not Comply Agreement Mediation

Protection to Confidentiality and Security of the Mediation Process

In mediation, especially in disputes involving frequent taxes involving information sensitive, protection to confidentiality information is very important. Policies and regulations that support must ensure that all information shared during the mediation process is protected and not used for objective others. Aspects Protection Confidentiality: Protection to Information Personal and Financial, Confidentiality Negotiations Mediation.

Challenges in Implementation Mediation in Dispute Tax

Lack of Awareness and Understanding about Mediation

One of the challenges in implementing mediation in dispute tax is lack of adequate awareness and understanding about mediation as an instrument settlement dispute. Good must tax and authority tax Possible more tend to choose track litigation or track administrative Because lack of knowledge about Benefits and mechanisms mediation. Problems Faced: Ignorance about Profit Mediation and Perception that Litigation More Effective. Solutions that can Taken: Socialization and Education and the Education Program for Mediators.

Lack of Infrastructure and Resources Power That Supports

Implementation of effective mediation needs to support adequate infrastructure, including source Power human and facilities that enable the progress of the mediation process in a way efficient. Disadvantages infrastructure This can become an obstacle in implementation mediation in dispute tax. Problems Faced: Limitations Number of Trained Mediators, and Lack of It Facility for Mediation.

Possible Solutions Taken: Improvement Training and Certification of Mediators and Infrastructure Development Mediation

Legal Uncertainty about Legal Power of Agreement Mediation

One of the challenges that hinders reception mediation in dispute tax is uncertainty about strength law from agreement mediation. If the losing party in mediation No honor results agreement, then agreement then becomes No means without existence mechanism enforcement clear law.

Problems Faced: Necessity Probate by Court and Absence Legal Sanctions for Violation Agreement

Possible Solutions Taken: Approval by the Court and Clear Law Enforcement:

Imbalance Position between Parties Involved

Often in dispute tax, there is an imbalanced position between party authority tax that has power and resources more power big compared to with must tax. Imbalance This can reduce effective mediation, especially if the tax must feel stressed or no one can voice its importance in a way free. Problems Faced: Domination Authority Taxes and Pressure for Accept Offer Authority Tax :

Possible Solutions Taken: Provision of Independent and Competent Mediators, and an Encouraging Approach Equality Position.

Risk Abuse of Mediation Process

Although meditation is designed to give peaceful settlement, there is a risk that one of the parties can try to abuse this process for extended time disputes or manipulate results through mediation. Abuse This can damage integrity system mediation and make the other party reluctant to use it.

Problems Faced: Manipulation of the Mediation Process and Lack of Effective Supervision.

Possible Solutions Taken: Strict Supervision and Regulation and Provision of Sanctions on Abuse

Evaluation and Development Mediation in Dispute Taxes in the Future

Although mediation in dispute tax owns Lots potential as alternative settlement efficient and effective dispute resolution, success and its future implementation is highly dependent on continuous evaluation. as well as developing more systems. Therefore, it is important to do evaluation regarding the mediation process that has been implemented and designed steps for development that can increase quality and accessibility mediation in the context of dispute tax. In part this will discuss various aspects that need to be considered, evaluated and developed to ensure sustainability and success in mediation in settlement dispute tax.

Evaluation Effectiveness Mediation in Completion Dispute Tax

Aspect Evaluation Needed Please note:

- Completion Level Dispute: How much? Lots of successful cases are completed through mediation compared to cases that end up in court or through the administrative process.
- Partiality and Justice in the Mediation Process: An evaluation is also a must measure how far mediation can overcome imbalance between party must taxes and authorities taxes, as well as ensure that the result fair for the second split party.
- Cost and Completion Time: Effectiveness mediation can also be measured from aspect subtraction costs and time spent by the parties involved compared to with a more lengthy litigation process.

Possible Solutions Found:

- Systematic Data Collection: Government or institution related can collect related data amount dispute resolved through mediation, level satisfaction parties involved, as well as duration and costs of the mediation process, to identify strengths and weaknesses mediation in dispute tax.

- Mechanism Bait Back : Using bait come back from parties involved in mediation to obtain a better picture clear about perception to the process and identify areas that need improvement. fixed.

Development Mediator Capacity in Dispute Tax

Aspect Development Mediator Capacity:

- Training Special about Tax Law
- Training Skills Mediation
- Mediator Certification and Accreditation

Possible Solutions Found:

- Structured Education Program: Government or institution related can conduct training programs that combine law tax with skills mediation to ensure the mediator can handle dispute tax in a way effective.
- Mechanism Certification: Development system certification recognized by the state or association professional will give guarantee quality towards the mediators involved in dispute tax.

Improvement Regulations and Policies Mediation

Improvement regulations and policies that govern mediation in dispute tax are also important in development system mediation. Existing regulations must adapt with development of the times and needs practice in the field.

Aspect Improvement Regulation : Changes Responsive Policies, More Settings Detailed as well as Improvement Accountability and Oversight : More regulation strict related supervision to the mediation process, as well as mechanism accountability for the mediator and the parties involved, will increase transparency and trust to mediation as method settlement dispute tax.

Possible Solutions Found : Review and Revision Periodic on Existing Regulations, as well as Making More Regulation Flexible and Adaptive

Dissemination Knowledge about Mediation to Must Taxes and Authorities Tax

For increased participation in mediation, good must tax and authority tax needs its own better understanding about benefits and procedures mediation. Dissemination knowledge is very important to push adoption mediation in a way wider.

Aspect Dissemination Knowledge: Campaign Intensive Socialization, Provision Source Power Information, Programs Training for Authority Tax.

Possible Solutions Found: Campaign Comprehensive Education, as well as Training for Party Authority Tax

Development Technology in Mediation Tax

Along with rapid development technology, usage technology in mediation dispute tax can increase efficiency, transparency, and accessibility. Development technology This Can cover use

of online mediation platforms, use of data and analytics for assist the mediator informulate a fair solution, as well as use technology for support implementation mediation in more remote areas isolated.

CONCLUSION

Based on the analysis, mediation emerged as an effective non-litigation alternative for resolving tax disputes, offering flexible and collaborative solutions that litigation often fails to provide. The success of mediation depends on the existence of clear and robust supporting regulations, as well as the involvement of competent and independent mediators with specialized tax law expertise. However, challenges remain, including limited public awareness, inadequate infrastructure, and legal uncertainties regarding the enforceability of mediated agreements. The future development of mediation in Indonesia's tax dispute resolution could be enhanced through technological innovation, regulatory refinement, and continuous improvement of mediator qualifications. For future research, it is suggested to explore the impact of digital mediation platforms and the integration of artificial intelligence in supporting fair and efficient tax dispute resolution processes.

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