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Reconstructing the Finality of Tax Court Decisions in Pursuit of Substantive Justice: A Progressive Legal Perspective

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Abstract

The absolute finality of Tax Court decisions under Law Number 14 of 2002 creates a structural tension between formal legal certainty and substantive justice, particularly in complex high-value disputes involving transfer pricing, beneficial ownership, and digital transactions that directly affect state revenue and the investment climate. Ordinary remedies are unavailable, and the only remaining avenue—extraordinary judicial review—is confined to narrowly prescribed grounds, leaving fundamental legal errors potentially uncorrected. This study aims to analyse the problematisation of Tax Court finality through the progressive legal perspective of Satjipto Rahardjo and to formulate a reconstructive model that integrates legal certainty with substantive justice. Employing normative legal research that is descriptive-analytical and prescriptive, the study applies statute, conceptual, and historical approaches, analysing primary and secondary legal materials through deductive reasoning guided by the three pillars of progressive law. The research develops the concept of Progressive Finality, which retains finality as the general rule while introducing limited cassation as a narrowly calibrated ordinary remedy confined to fundamental errors of law, serious due-process violations, and manifest judicial mistakes. This model offers a balanced pathway for reforming Articles 33(1) and 77(1) of the Tax Court Law, strengthening judicial accountability and interpretive consistency without undermining fiscal stability or enabling deliberate delay of legitimate tax obligations.

Keywords: Limited cassation, progressive finality, progressive legal perspective, substantive justice, tax court.

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INTRODUCTION

Tax serves as the primary instrument of state financing,[1] performing a strategic function in supporting governance and national development while fulfilling the constitutional duty of citizens under Article 23A of the 1945 Constitution of the Republic of Indonesia.[2] Because taxation is coercive and directly affects citizens' economic rights,[3] an effective legal protection mechanism is required to balance state interests with taxpayers' rights to justice.[4] Indonesia established the Tax Court under Law Number 14 of 2002 concerning the Tax Court.[5] Pursuant to Article 33(1) and Article 77(1), the Tax Court functions as a court of first and last instance whose decisions are final and binding. Ordinary remedies such as appeal or cassation are unavailable; the only remaining avenue is extraordinary judicial review (*Peninjauan Kembali*) before the Supreme Court, which may be sought solely on the limited grounds prescribed by statute (Articles 77(3), 89, and 91). This design of finality creates a fundamental normative tension: by largely closing avenues for correcting legal errors—except through a narrowly circumscribed extraordinary remedy—it risks subordinating substantive justice to formal legal certainty, particularly in high-value tax disputes involving complex legal interpretation.

From the perspective of Gustav Radbruch's triad of legal purposes, a sound legal order must integrate legal certainty, justice, and expediency in balanced proportion so that none dominates at the expense of the others.[6] Progressive legal theory, as developed by Satjipto Rahardjo, provides the central analytical lens for examining this tension. Rahardjo insists that law exists for human beings rather than the reverse;[7] law must serve as an instrument for realizing welfare and substantive justice and must not be applied in a mechanical or formalistic manner.[8] When the finality of Tax Court decisions threatens to perpetuate fundamental legal errors, progressive law

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[1] Amelia Cahyadini, Josep Irvan Gilang Hutagalung, and Zainal Muttaqin, "The Urgency of Reforming Indonesia's Tax Law in the Face of Economic Digitalization," *Cogent Social Sciences* 9, no. 2 (December 15, 2023), https://doi.org/10.1080/23311886.2023.2285242.

[2] Taqwallah Taqwallah and Sigit Nurhadi Nugraha, "Tax Justice: A Study of Value Added Tax (VAT) Policy in Indonesia," *Journal of Public Representative and Society Provision* 6, no. 1 (January 29, 2026): 144–63, https://doi.org/10.55885/jprsp.v6i1.754.

[3] Moch. Ali Fathony and Wisnu Aryo Dewanto, "Legal Analysis of Coercive Letters in Tax Collection Reviewed from a Legal Perspective and Coercive Enforcement Theory," *Lex Journal : Kajian Hukum Dan Keadilan* 10, no. 1 (February 19, 2026): 180–89, https://doi.org/10.25139/lex.v10i1.11623.

[4] Benjamín Sevilla-Bernabéu and Estrella Del-Valle-Calzada, "Tax Policies with a Human Rights Perspective: Towards Greater Tax Justice," *South African Journal of Accounting Research* 38, no. 3 (September 16, 2024): 264–77, https://doi.org/10.1080/10291954.2024.2348042.

[5] Amelia Cahyadini et al., "Adopting Pillar One: An Ideal Model for the Transformation of Indonesia's Tax Law to Realize SDGs Goal XVII and It's Challenges," *Cogent Social Sciences* 11, no. 1 (December 31, 2025), https://doi.org/10.1080/23311886.2025.2459321.

[6] Muklis Al'anam, "Teori Keadilan Perspektif Gustav Radbruch: Hubungan Moral Dan Hukum," *Jurnal Humaniora : Jurnal Ilmu Sosial, Ekonomi Dan Hukum* 9, no. 1 (April 30, 2025): 119–33, https://doi.org/10.30601/humaniora.v9i1.6393.

[7] Herlindah Herlindah, Siti Rohmah, and Ahmad Qiram As-Suvi, "Character-Building For Law Students: Exploring The Satjipto Rahardjo's Thoughts," *WASKITA: Jurnal Pendidikan Nilai Dan Pembangunan Karakter* 6, no. 2 (October 31, 2022): 156–73, https://doi.org/10.21776/ub.waskita.2022.006.02.3.

[8] Noval Ramadhani et al., "Paradigma Hukum Progresif Sebagai Arah Pembaruan Keadilan Indonesia," *RIGGS: Journal of Artificial Intelligence and Digital Business* 5, no. 2 (July 22, 2026): 17378–85, https://doi.org/10.31004/riggs.v5i2.12086.

demands a critical reappraisal of the status quo in order to restore law's orientation toward humanity and justice.

Existing scholarship on the Indonesian Tax Court has largely concentrated on institutional and procedural dimensions. Studies have examined the Court's position and independence within the judicial power,[9] its character as a full-jurisdiction court,[10] dualism in administrative supervision,[11] and the strengthening of institutional independence following Constitutional Court Decision Number 26/PUU-XXI/2023.[12] Others have assessed procedural effectiveness and the balance between state and taxpayer interests, yet they have generally remained within a framework of procedural legality. Collectively, these works leave the relationship between finality and substantive justice largely unexplored. Comparative and international literature further underscores the need for balance. OECD analyses of tax dispute resolution mechanisms emphasize that effective systems combine efficiency and finality with meaningful opportunities for legal oversight and correction to ensure consistency and maintain taxpayer confidence. Comparative studies of tax dispute resolution across jurisdictions—including developed and emerging economies—reveal varied approaches to finality, appellate review, and access to justice, highlighting that absolute finality at a single specialized instance can raise concerns about error correction and the protection of taxpayer rights, particularly in systems still consolidating institutional independence.

Existing scholarship has not yet placed the finality of Tax Court decisions at the centre of inquiry, nor has it systematically examined this finality against the demands of substantive justice through the lens of progressive law. This research gap has become more pressing after Constitutional Court Decision Number 26/PUU-XXI/2023 reinforced the Court's institutional integration under the Supreme Court without resolving the limited availability of legal correction. The Indonesian experience is relevant beyond national borders: many emerging economies confront similar challenges in designing specialized tax judiciaries that deliver both fiscal stability and credible access to justice. Examining how progressive legal principles can inform a more balanced model of finality therefore contributes to broader comparative debates on tax judicial reform in developing and emerging systems.

The central challenge of this research is to reconstruct the finality of Tax Court decisions so that legal certainty and fiscal stability are preserved while still permitting correction of fundamental legal errors, serious due-process violations, and manifest judicial mistakes. The study aims to analyze the problematic aspects of finality in the

[9] I Wayan Kandia, I Wayan Eka Santika, and Putu Windu Mertha Sujana, "The Independence of the Tax Court within Indonesia's Judicial Power System," *Journal of Multidisciplinary Law Studies* 1, no. 2 (July 10, 2026): 170–79, https://doi.org/10.60153/e4a90h14; Virna Regika et al., "The Strengthening of Tax Court Independence in the Indonesian Judicial System," *Jurnal Cakrawala Hukum* 15, no. 1 (April 1, 2024): 80–90, https://doi.org/10.26905/idjch.v15i1.14276.

[10] Ridwan HR, SHI., MH., Despan Heryansyah, and SH., MH., Dian Kus Pratiwi, "Perluasan Kompetensi Absolut Pengadilan Tata Usaha Negara Dalam Undang-Undang Administrasi Pemerintahan," *Jurnal Hukum Ius Quia Iustum* 25, no. 2 (May 2018): 339–58, https://doi.org/10.20885/iustum.vol25.iss2.art7.

[11] Hari Hasan, "Prinsip Kesamaan Kedudukan Hukum Dalam Penyelesaian Sengketa Pajak Di Indonesia," *Jurnal Gagasan Hukum* 2, no. 01 (June 30, 2020): 52–70, https://doi.org/10.31849/jgh.v2i01.8235.

[12] Gilang Widia and Tjip Ismail, "The Change In Status Of The Tax Court Based On The Constitutional Court Decision Number 26/Puu-Xxi/2023," *JHSS (Journal Of Humanities And Social Studies)* 7, no. 3 (June 12, 2024): 887–92, https://doi.org/10.33751/JHSS.V7I3.9771.

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Indonesian tax dispute resolution system through the progressive legal perspective of Satjipto Rahardjo and to formulate a model of progressive legal-policy reconstruction that integrates legal certainty, expediency, and substantive justice. The novelty of the research lies in the concept of Progressive Finality—an approach that treats finality as the general rule while recognizing a carefully limited space for corrective review justified by progressive legal principles. In this way the study seeks to advance theoretical understanding of tax adjudication and to offer normative recommendations for reforming Law Number 14 of 2002, affirming that legal certainty and substantive justice need not be mutually exclusive but can be reconciled within a more just framework for resolving tax disputes.

METHOD

This study employs normative legal research that is both descriptive-analytical and prescriptive. It examines the norms, principles, doctrines, and legal policy governing the finality of Tax Court decisions within the Indonesian legal system. The descriptive-analytical dimension is used to map the existing legal construction of finality and to identify the problems arising from it. The prescriptive dimension is directed toward formulating a legal-policy recommendation (ius constituendum) in the form of the Progressive Finality concept.

Three approaches are applied. The statute approach is used to examine the 1945 Constitution, Law Number 14 of 2002 on the Tax Court, Law Number 48 of 2009 on Judicial Power, and relevant Constitutional Court decisions. The conceptual approach is employed to analyse the notions of legal policy, finality, legal certainty, substantive justice, access to justice, and progressive law. The historical approach traces the background and legislative intent underlying the establishment of the Tax Court. These jurisdictions were selected because each represents a distinct model of judicial correction in tax matters (limited cassation within a civil-law tradition, a separate administrative-court structure, and a specialised tax court with multi-tier appellate avenues), thereby providing relevant comparative insight for the formulation of the Progressive Finality model.

Primary legal materials consist of statutes and the decisions of the Constitutional Court and the Supreme Court that directly address finality and remedies in tax adjudication. These are supplemented by secondary materials (books, journal articles, theses, and dissertations) and tertiary sources, all gathered through library research. The legal materials are analysed qualitatively by means of deductive reasoning within the framework of Satjipto Rahardjo's progressive legal theory. The analysis rests on three operational pillars: law for human beings, rejection of an unjust legal status quo, and law as an instrument of liberation toward substantive justice. These pillars are used to identify normative deficiencies in the current finality regime, to assess the tension between legal certainty and substantive justice, and to construct the argumentative foundation for a carefully limited corrective mechanism as the concrete expression of Progressive Finality.

RESULT AND DISCUSSION

The Problematics of Finality and Progressive Legal Doctrine

The central problem of finality in Tax Court decisions under Law Number 14 of 2002 concerning the Tax Court lies in the severely restricted space for judicial correction. Articles 33(1) and 77(1) expressly designate the Tax Court as a court of first and last instance whose decisions are final and binding. Ordinary remedies such as appeal or cassation are unavailable.[13] The only remaining avenue is extraordinary judicial review (*Peninjauan Kembali*) before the Supreme Court,[14] which may be pursued solely on the strictly limited grounds enumerated in Articles 77(3), 89, 90, and 91. As a result, not every legal error can be re-examined. Errors that arise in the process of legal reasoning, the construction of judicial arguments, or the interpretation of complex modern tax transactions—particularly those involving transfer pricing, beneficial ownership, and the digital economy—frequently fall outside the narrow statutory grounds for review and therefore become immune to further scrutiny.

In a modern constitutional state governed by the rule of law, the function of a court is not exhausted by the rapid production of final decisions. The system must also guarantee that both the process and the outcome are just. Access to justice, as conceptualised by Cappelletti and Garth, is not limited to the formal opportunity to file a case before a competent tribunal.[15] It encompasses the availability of effective mechanisms capable of protecting substantive rights when serious errors occur. When a judicial system closes off virtually all avenues of correction for errors that materially affect the rights of the parties, that system itself becomes subject to evaluation from the standpoint of access to justice.

The relevance of this evaluation has been reinforced by Constitutional Court Decision Number 26/PUU-XXI/2023. In that decision the Court ordered the gradual transfer of organisational, administrative and financial supervision of the Tax Court from the Ministry of Finance to the Supreme Court, to be completed no later than 31 December 2026. The ruling demonstrates that the institutional design of the Tax Court is not immune to constitutional scrutiny. If the organisational arrangements of the Court can be re-examined because they implicate judicial independence, then the procedural architecture of finality itself must likewise be open to re-examination when it threatens to curtail the protection of substantive justice.

The finality regime therefore generates a fundamental tension between two legal values. On the one hand, finality is indispensable for legal certainty and for the effective functioning of the

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[13] Ismail Rumadan, "Eksistensi Pengadilan Pajak Dalam Sistem Peradilan Di Indonesia," *Jurnal Hukum Dan Peradilan* 1, no. 1 (March 30, 2012): 35, https://doi.org/10.25216/jhp.1.1.2012.35-62; Aniek Andriani, Muh Amin Saleh, and Muhenri Sihotang, "Analisis Penerapan SEMA No . 2 Tahun 2024 Dalam Pembuktian Sengketa Pajak Di Pengadilan Pajak," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 4 (2026): 20922–32.

[14] Arthuro Richie Gunawan and Edith Ratna Mulyaningrum, "Mekanisme Peninjauan Kembali Atas Putusan Pengadilan Pajak Dalam Upaya Penyelesaian Sengketa Pajak," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 6 (September 22, 2024): 2662–70, https://doi.org/10.38035/jihhp.v4i6.2849.

[15] Mauro Cappelletti and Bryant Garth, "Access t Access to Justice: The Newest W o Justice: The Newest Wave in the W e in the Worldwide Mo Orldwide Movement to Make Rights E e Rights Effective," *Bufallo Law Review* 181 (1978), https://digitalcommons.law.buffalo.edu/buffalolawreview/vol27/iss2/1.

tax system. The state requires predictability regarding the collection of revenue; taxpayers require clarity regarding their rights and obligations. On the other hand, an excessively rigid finality can obstruct the correction of decisions that contain fundamental legal error. This tension cannot be resolved by elevating one value to absolute supremacy. Legal certainty cannot be sacrificed entirely in favour of unlimited avenues of review, yet substantive justice cannot be sacrificed merely for the sake of rapid case closure.

Progressive legal theory, as developed by Satjipto Rahardjo, supplies the analytical framework for addressing this tension. Progressive law rejects the notion that law is a finished, closed normative system.[16] Law is understood as a continuous process that must adapt to human needs and social development.[17] When finality is treated as an untouchable doctrinal absolute, the legal system risks protecting its own formal integrity more than it protects the human beings who seek justice through it. Progressive law places the human person at the centre of legal orientation.

Three operational pillars of progressive law illuminate the problem of Tax Court finality. The first pillar is "law for human beings." Law must serve human needs rather than compel human beings to serve rigid procedural forms. In the context of the Tax Court both the taxpayer and the state (represented by the tax authority) have a legitimate interest in decisions that are not only final but also just. Finality must therefore be designed as an instrument of justice rather than as an end in itself that extinguishes every possibility of correction.

The second pillar is the rejection of an unjust legal status quo. The status quo in this context is the continued maintenance of a legal arrangement solely because it has long been in force. The finality of Tax Court decisions has remained essentially unchanged for more than two decades since the enactment of Law Number 14 of 2002. In that period, however, the character of tax disputes has become markedly more complex. Controversies concerning transfer pricing (the determination of arm's-length prices in cross-border related-party transactions), beneficial ownership (the identification of the true economic owner of income for treaty purposes), and digital-economy transactions routinely present intricate questions of legal interpretation. Maintaining absolute finality without critical evaluation under these conditions creates a heightened risk of permanent injustice.

The third pillar is law as an instrument of liberation toward substantive justice. Liberation in this sense does not mean freeing taxpayers from their obligation to pay tax. It means freeing the parties from the possibility of becoming permanent victims of a decision that contains fundamental legal error. Limited judicial correction is therefore not a threat to legal certainty; it is a necessary safeguard that ensures the certainty produced by a court decision rests upon a foundation of justice.

Taken together, these considerations demonstrate that the problem of Tax Court finality is not merely a technical question of procedural design. It is a deeper normative problem concerning

[16] Fence M Wantu and Irlan Puluhulawa, "Demanding Progressive Judges' Decisions for Fulfillment of Justice for Disputing Parties," *Jurnal Legalitas* 16, no. 1 (April 17, 2023): 87–98, https://doi.org/10.33756/jelta.v16i1.18435.
[17] Syinta Amelia, "Progressive Legal Approach to Modern Community Law Enforcement in Indonesia," *Pancasila and Law Review* 4, no. 1 (March 28, 2023): 1–14, https://doi.org/10.25041/plr.v4i1.2729.

the proper relationship between formal legal certainty and substantive justice within a constitutional state. Progressive legal theory requires that this relationship be re-examined and, where necessary, reconstructed so that finality continues to serve the ends of justice rather than obstruct them.

Progressive Finality: Reconstructing Finality toward Substantive Justice

The preceding analysis has established that the current construction of Tax Court finality under Law Number 14 of 2002 is predominantly grounded in the paradigm of formal legal certainty. Finality is treated as an absolute terminal point of litigation:[18] once a decision is rendered by the Tax Court, the dispute is regarded as closed, and the only remaining avenue is the extraordinary remedy of Peninjauan Kembali, available solely on narrowly prescribed grounds. This design prioritises speed, predictability, and the efficient administration of the tax system. Yet it simultaneously creates a structural vulnerability: fundamental errors of legal interpretation, serious due-process violations, or manifest judicial mistakes may become permanently insulated from correction. In a constitutional state that guarantees access to justice and the protection of rights, such insulation is difficult to justify.

Progressive legal theory, as articulated by Satjipto Rahardjo, insists that law must not be understood as a closed and finished normative system. Law remains in a continuous process of becoming; it must move in response to human needs and the evolving demands of justice.[19] When finality is elevated into an untouchable doctrine that protects the formal integrity of the system more than the human beings who seek justice through it, the law ceases to fulfil its primary purpose. Progressive law therefore requires a critical reappraisal of any status quo that produces or perpetuates injustice. The finality regime of the Tax Court, which has remained essentially unchanged for more than two decades despite the growing complexity of tax disputes involving transfer pricing, beneficial ownership, and digital-economy transactions, constitutes precisely such a status quo.

It is from this progressive orientation that the present study develops the concept of Progressive Finality. Progressive Finality is not the abolition of finality. It is a reconstruction of the meaning and function of finality. The concept retains finality as the general rule that governs Tax Court decisions, thereby preserving legal certainty and fiscal stability. At the same time, it opens a carefully limited space for judicial correction when a decision is shown to contain a fundamental legal error, a serious violation of due process, or a manifest injustice that cannot be tolerated within a democratic rule-of-law state. In short, Progressive Finality transforms finality from "finality of litigation" into "finality through justice."

This reconstruction rests on the integration of Radbruch's triad of legal values with the three operational pillars of progressive law. Gustav Radbruch maintained that a legitimate legal order

[18] Bidish Sarma, "Finality Is Not the Last Word," *Akron Law Review* 59, no. 3 (2026): 619–43, https://ideaexchange.uakron.edu/akronlawreview/vol59/iss3/3.

[19] Anita Audina et al., "Revitalisasi Hukum Progresif Analisis Filsafat Atas Paradigma Dan Dinamika Perubahan Hukum," *Journal of Innovative and Creativity (Joecy)* 6, no. 1 (January 11, 2026): 1882–90, https://doi.org/10.31004/joecy.v6i1.6710.

must hold justice, legal certainty, and expediency in proportional balance.[20] Absolute supremacy of formal certainty that produces intolerable injustice undermines the moral legitimacy of law itself. Progressive law sharpens this insight by insisting that law exists for human beings, that an unjust status quo must be rejected, and that law must serve as an instrument of liberation toward substantive justice. Applied to Tax Court finality, these principles yield four interrelated foundations of Progressive Finality.

First, finality remains indispensable. Tax disputes cannot be permitted to remain indefinitely open. The state requires predictability of revenue, and taxpayers require clarity regarding their rights and obligations. Progressive Finality therefore continues to treat finality as the ordinary and expected outcome of Tax Court adjudication.

Second, the space for correction must remain exceptional. Progressive Finality deliberately rejects the creation of a new ordinary appellate tier that would convert the Tax Court into a mere first-instance tribunal and expose the tax system to prolonged multi-level litigation. Correction is available only under strictly limited conditions and only for errors that strike at the legal foundations of the decision.

Third, the grounds for correction are confined to fundamental legal errors and serious procedural injustices. Ordinary differences of factual assessment, discretionary evaluation of evidence, or alternative interpretations that fall within the legitimate range of judicial judgment do not open the door to further review. Only those defects that produce a miscarriage of justice or undermine the constitutional guarantees of fair process and equal protection of the law justify intervention.

Fourth, the corrective mechanism must be designed proportionally so that it strengthens, rather than weakens, the legitimacy and effectiveness of the tax-adjudication system. The purpose of limited correction is not to multiply remedies but to ensure that the certainty produced by a final decision rests upon a foundation of correct legal reasoning and respect for constitutional rights.

By anchoring finality in these four foundations, Progressive Finality redefines the very meaning of legal certainty in tax adjudication. Certainty is no longer reduced to the mere procedural fact that a dispute has ended. It becomes substantive legal certainty: the assurance that the dispute has been resolved through a decision that is both final in form and just in substance. A decision that is rapid yet fundamentally erroneous cannot be regarded as a genuine manifestation of legal certainty. Conversely, a limited and carefully controlled opportunity for correction does not destroy certainty; it purifies it.

This conceptual shift also clarifies the relationship between Progressive Finality and the existing extraordinary remedy of Peninjauan Kembali. Progressive Finality does not seek to expand or dilute the grounds of Peninjauan Kembali. Rather, it introduces a distinct, ordinary but strictly limited corrective mechanism—limited cassation—whose function is to address

[20] Mutia Evi Kristhy et al., "The Role of Judges in Realizing the Three Basic Legal Values Reviewed from Gustav Radbruch's View," *Journal of Political And Legal Sovereignty* 1, no. 3 (July 31, 2023): 88–92, https://doi.org/10.38142/jpls.v1i3.81.

fundamental errors of law and serious due-process violations that currently fall outside the narrow statutory grounds of Article 91. The two remedies remain functionally separate: limited cassation operates as a controlled instrument of legal uniformity and substantive justice; Peninjauan Kembali continues to serve as the extraordinary safety-net for newly discovered evidence or other exceptional circumstances. In this way Progressive Finality avoids both jurisdictional overlap and functional redundancy at the level of the Supreme Court.

The urgency of such a reconstruction is heightened by the institutional developments following Constitutional Court Decision Number 26/PUU-XXI/2023. That decision strengthened the independence of the Tax Court by directing its full integration into the one-roof system under the Supreme Court. Independence, however, is incomplete without corresponding accountability.[21] A specialised court that exercises comprehensive factual and legal jurisdiction as a single-instance tribunal requires a proportional mechanism of higher legal oversight if its decisions are to command lasting legitimacy. Progressive Finality supplies precisely that mechanism: it respects the specialised expertise of the Tax Court while ensuring that fundamental legal errors do not become permanently insulated from review.

In sum, Progressive Finality constitutes the principal theoretical contribution of this study. It offers a middle path between absolute finality, which risks permanent injustice, and unrestricted multi-tier appeals, which risk fiscal instability and excessive delay. By reconstructing finality so that it remains the general rule yet remains open to limited correction in the service of substantive justice, Progressive Finality aligns the architecture of Tax Court adjudication with the demands of progressive legal theory and the constitutional guarantees of a democratic rule-of-law state. This conceptual foundation provides the normative basis upon which the operational design of limited cassation and the corresponding legislative recommendations can be developed.

Operational Design of Limited Cassation and Normative Recommendations

The conceptual reconstruction of Progressive Finality must be translated into a concrete operational design if it is to serve as a viable model of legal-policy reform. Progressive Finality retains finality as the general rule governing Tax Court decisions, yet it recognises a carefully limited exception for judicial correction when a decision contains a fundamental legal error or produces a serious injustice. The instrument that realises this exception is limited cassation (kasasi terbatas) to the Supreme Court. This section elaborates the design of that instrument, clarifies its relationship with the existing extraordinary remedy of Peninjauan Kembali, sets out the limitative criteria that govern its availability, and formulates the corresponding normative recommendations for the amendment of Law Number 14 of 2002.

Limited cassation is conceived as an ordinary but strictly controlled remedy.[22] It differs fundamentally from conventional cassation in the general courts because it does not reopen the

[21] Farah Syah Rezah and Andi Tenri Sapada, "The Independence and Accountability of the Constitutional Court in the Constitutional System in Indonesia," *SIGn Jurnal Hukum* 4, no. 2 (January 5, 2023): 247–60, https://doi.org/10.37276/sjh.v4i2.166.

[22] Nia Noviyani and Indah Nadya Kalalo, "Casation in Civil Procedure Law Is Reviewed from a Legal Logic Perspective," *International Journal of Research and Innovation in Social Science* VIII, no. IX (2024): 1498–1502, https://doi.org/10.47772/IJRISS.2024.8090122.

factual examination of the case. The Tax Court remains the exclusive judex facti: it alone determines the facts of the tax dispute, evaluates the evidence, assesses the commercial and economic substance of transactions, and applies specialised tax knowledge. The Supreme Court, acting solely as judex juris, examines only whether the Tax Court has correctly applied the relevant legal norms, respected the principles of fair process, and avoided fundamental errors of interpretation that directly affect the operative part of the decision. In this way limited cassation preserves the specialised character of the Tax Court while enabling the Supreme Court to perform its constitutional function of ensuring the uniformity and integrity of legal interpretation.

The relationship between limited cassation and *Peninjauan Kembali* must be stated with precision in order to avoid jurisdictional overlap and functional redundancy. Limited cassation is an ordinary remedy,[23] albeit one of narrow scope, that addresses fundamental errors of law and serious due-process violations that arise on the face of the decision or the legal reasoning that supports it. Peninjauan Kembali remains an extraordinary remedy available only on the limited grounds already prescribed by statute, principally the discovery of new decisive evidence or other exceptional circumstances. The two remedies therefore operate in distinct domains: limited cassation corrects legal error; Peninjauan Kembali addresses extraordinary situations that could not have been raised in the ordinary course of proceedings. Progressive Finality does not seek to expand or dilute the grounds of Peninjauan Kembali; it introduces a separate, carefully calibrated mechanism whose purpose is to fill the corrective gap that currently exists between absolute finality and the narrow extraordinary remedy.

In order to prevent limited cassation from becoming a disguised form of ordinary appeal, its availability is confined to five limitative criteria. First, the decision must contain a fundamental error in the application or interpretation of tax law that directly determines the operative part of the judgment. Ordinary differences of legal opinion that fall within the legitimate range of judicial interpretation do not satisfy this threshold. Second, the decision must involve a serious violation of due-process guarantees, including the right to be heard, equality before the law, or other essential elements of a fair trial. Third, the decision must rest upon a manifest judicial error—an obvious and undeniable mistake in the legal reasoning that no reasonable panel could have reached. Fourth, the decision must unjustifiably depart from settled Supreme Court jurisprudence or from a binding decision of the Constitutional Court that has erga omnes effect. Fifth, the decision must result from an abuse of judicial authority, a conflict of interest, or a grave breach of the principles of independence and impartiality. These criteria are cumulative in spirit even if not always concurrent: each is designed to ensure that only errors of fundamental gravity open the door to higher review.

The practical urgency of such a mechanism is illustrated by the recurring difficulties that arise in complex tax disputes, particularly those involving transfer pricing and beneficial ownership. Different panels of the Tax Court have reached divergent conclusions on the selection of transfer-pricing methods, the use of multi-year versus single-year comparables, the functional characterisation of related-party entities, and the economic-substance test for beneficial

[23] Miftachur R Habibi, "Judgement, Legal Attempt And Execution Of Criminal Law In Indonesia," *DE RECHT (Journal of Police and Law Enforcement)*, January 31, 2024, 56–69, https://doi.org/10.55499/derecht.v2i1.215.

ownership. Because these divergences frequently turn on questions of legal interpretation rather than pure fact-finding, and because the restrictive grounds of Article 91 often preclude Peninjauan Kembali, inconsistent applications of the same legal norms can become final and binding. Limited cassation would enable the Supreme Court to harmonise such interpretations without converting the Tax Court into a mere first-instance tribunal or reopening the factual record.

The operational design of limited cassation also strengthens judicial accountability. The Tax Court exercises broad factual and legal jurisdiction as a single-instance specialised court. Independence without a proportional mechanism of legal oversight risks concentrating excessive authority. Limited cassation supplies that mechanism: it respects the specialised expertise of the Tax Court while ensuring that fundamental legal errors do not become permanently insulated from review. In the long term, the mere existence of a carefully limited corrective avenue can be expected to improve the quality of judicial reasoning, encourage more systematic engagement with relevant jurisprudence, and enhance public confidence in the fairness of the tax-adjudication system.

To give legal effect to this design, targeted amendments to Law Number 14 of 2002 are required. Article 33(1), which currently provides that the Tax Court is a court of first and last instance, should be reformulated to read:

"The Tax Court is the court of first instance that examines and decides tax disputes with full jurisdiction as judex facti. Against a decision of the Tax Court a limited cassation may be lodged with the Supreme Court on the grounds prescribed by statute."

Article 77(1), which currently states that a Tax Court decision is final and has permanent legal force, should be reformulated to read:

"A decision of the Tax Court acquires permanent legal force upon its pronouncement, except where limited cassation or Peninjauan Kembali is properly pursued in accordance with the provisions of this Law."

These formulations preserve the principle that finality is the ordinary rule while expressly recognising the exceptional availability of limited cassation. They also maintain a clear functional separation between limited cassation and Peninjauan Kembali, thereby avoiding any ambiguity of competence at the level of the Supreme Court.

In sum, the operational design of limited cassation translates the theoretical concept of Progressive Finality into a workable institutional arrangement. It retains finality as the general rule, confines correction to fundamental legal and procedural errors, preserves the specialised character of the Tax Court, and strengthens the constitutional function of the Supreme Court as the guardian of legal uniformity. By doing so, it offers a balanced response to the tension between formal legal certainty and substantive justice that has characterised the current finality regime. The proposed amendments to Articles 33 and 77 provide the normative pathway through which this reconstruction can be realised, thereby aligning the architecture of Indonesian tax

adjudication with the demands of progressive legal theory and the guarantees of a democratic constitutional state.

CONCLUSION

This study demonstrates that the absolute finality of Tax Court decisions under Law Number 14 of 2002 generates a structural tension between formal legal certainty and substantive justice, particularly in complex disputes involving transfer pricing, beneficial ownership, and digital transactions that directly affect state revenue and the investment climate. By developing the concept of Progressive Finality, the research reconstructs finality as the general rule while introducing limited cassation as a narrowly calibrated ordinary remedy confined to fundamental errors of law, serious due-process violations, and manifest judicial mistakes. Theoretically, Progressive Finality advances tax adjudication scholarship by offering a middle path that integrates legal certainty with substantive justice without converting the Tax Court into a multi-tier appellate system. Practically, it strengthens judicial accountability, promotes interpretive consistency across panels, and enhances taxpayer confidence, thereby supporting both fiscal stability and a more predictable investment environment.

The study is limited by its predominantly normative character and the absence of extensive empirical quantification of uncorrected legal errors. Future research should examine the practical frequency and fiscal impact of such errors through systematic case analysis. Legislators are recommended to amend Articles 33(1) and 77(1) of Law Number 14 of 2002 in accordance with the proposed formulations, while embedding strict procedural filters—such as mandatory leave requirements, short filing deadlines, and non-suspensive effect of limited cassation—to ensure the mechanism cannot be exploited by tax evaders to delay payment of legitimate tax obligations to the state treasury.

REFERENCES

Al'anam, Muklis. "Teori Keadilan Perspektif Gustav Radbruch: Hubungan Moral Dan Hukum." *Jurnal Humaniora : Jurnal Ilmu Sosial, Ekonomi Dan Hukum* 9, no. 1 (April 30, 2025): 119–33. https://doi.org/10.30601/humaniora.v9i1.6393.

Amelia, Syinta. "Progressive Legal Approach to Modern Community Law Enforcement in Indonesia." *Pancasila and Law Review* 4, no. 1 (March 28, 2023): 1–14. https://doi.org/10.25041/plr.v4i1.2729.

Andriani, Aniek, Muh Amin Saleh, and Muhenri Sihotang. "Analisis Penerapan SEMA No . 2 Tahun 2024 Dalam Pembuktian Sengketa Pajak Di Pengadilan Pajak." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 4 (2026): 20922–32.

Audina, Anita, Siti Hawa Ainul, Marjan Marjan, Oki Sadewo Setyo, and Elviandri Elviandri. "Revitalisasi Hukum Progresif Analisis Filsafat Atas Paradigma Dan Dinamika Perubahan Hukum." *Journal of Innovative and Creativity (Joecy)* 6, no. 1 (January 11, 2026): 1882–90. https://doi.org/10.31004/joecy.v6i1.6710.

Cahyadini, Amelia, Josep Irvan Gilang Hutagalung, and Zainal Muttaqin. "The Urgency of Reforming Indonesia's Tax Law in the Face of Economic Digitalization." *Cogent Social*

Sciences 9, no. 2 (December 15, 2023). https://doi.org/10.1080/23311886.2023.2285242.

Cahyadini, Amelia, Tasya Safiranita, Sherly Ayuna Putri, Josep Irvan Gilang Hutagalung, and Fahriza. "Adopting Pillar One: An Ideal Model for the Transformation of Indonesia's Tax Law to Realize SDGs Goal XVII and It's Challenges." *Cogent Social Sciences* 11, no. 1 (December 31, 2025). https://doi.org/10.1080/23311886.2025.2459321.

Cappelletti, Mauro, and Bryant Garth. "Access t Access to Justice: The Newest W o Justice: The Newest Wave in the W e in the Worldwide Mo Orldwide Movement to Make Rights E e Rights Effective." *Bufallo Law Review* 181 (1978). https://digitalcommons.law.buffalo.edu/buffalolawreview/vol27/iss2/1.

Fathony, Moch. Ali, and Wisnu Aryo Dewanto. "Legal Analysis of Coercive Letters in Tax Collection Reviewed from a Legal Perspective and Coercive Enforcement Theory." *Lex Journal : Kajian Hukum Dan Keadilan* 10, no. 1 (February 19, 2026): 180–89. https://doi.org/10.25139/lex.v10i1.11623.

Gunawan, Arthuro Richie, and Edith Ratna Mulyaningrum. "Mekanisme Peninjauan Kembali Atas Putusan Pengadilan Pajak Dalam Upaya Penyelesaian Sengketa Pajak." *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 6 (September 22, 2024): 2662–70. https://doi.org/10.38035/jihhp.v4i6.2849.

Habibi, Miftachur R. "Judgement, Legal Attempt And Execution Of Criminal Law In Indonesia." *DE RECHT (Journal of Police and Law Enforcement)*, January 31, 2024, 56–69. https://doi.org/10.55499/derecht.v2i1.215.

Hasan, Hari. "Prinsip Kesamaan Kedudukan Hukum Dalam Penyelesaian Sengketa Pajak Di Indonesia." *Jurnal Gagasan Hukum* 2, no. 01 (June 30, 2020): 52–70. https://doi.org/10.31849/jgh.v2i01.8235.

Herlindah, Herlindah, Siti Rohmah, and Ahmad Qiram As-Suvi. "Character-Building For Law Students: Exploring The Satjipto Rahardjo's Thoughts." *WASKITA: Jurnal Pendidikan Nilai Dan Pembangunan Karakter* 6, no. 2 (October 31, 2022): 156–73. https://doi.org/10.21776/ub.waskita.2022.006.02.3.

HR, Ridwan, SHI., MH., Despan Heryansyah, and SH., MH., Dian Kus Pratiwi. "Perluasan Kompetensi Absolut Pengadilan Tata Usaha Negara Dalam Undang-Undang Administrasi Pemerintahan." *Jurnal Hukum Ius Quia Iustum* 25, no. 2 (May 2018): 339–58. https://doi.org/10.20885/iustum.vol25.iss2.art7.

Kandia, I Wayan, I Wayan Eka Santika, and Putu Windu Mertha Sujana. "The Independence of the Tax Court within Indonesia's Judicial Power System." *Journal of Multidisciplinary Law Studies* 1, no. 2 (July 10, 2026): 170–79. https://doi.org/10.60153/e4a90h14.

Kristhy, Mutia Evi, Helmi Hamdani, Miko Siamiko, and Oki Sanjaya. "The Role of Judges in Realizing the Three Basic Legal Values Reviewed from Gustav Radbruch's View." *Journal of Political And Legal Sovereignty* 1, no. 3 (July 31, 2023): 88–92. https://doi.org/10.38142/jpls.v1i3.81.

Noviyani, Nia, and Indah Nadya Kalalo. "Casation in Civil Procedure Law Is Reviewed from a Legal Logic Perspective." *International Journal of Research and Innovation in Social Science* VIII, no. IX (2024): 1498–1502. https://doi.org/10.47772/IJRISS.2024.8090122.

Ramadhani, Noval, May Nafilya Putri, Mauhammad Wahyudi, and Elviandri Elviandri. "Paradigma Hukum Progresif Sebagai Arah Pembaruan Keadilan Indonesia." *RIGGS: Journal of Artificial Intelligence and Digital Business* 5, no. 2 (July 22, 2026): 17378–85. https://doi.org/10.31004/riggs.v5i2.12086.

Regika, Virna, Muspita Sari, Mirwan Fikri Muhkam, and Irfan Amir. "The Strengthening of Tax Court Independence in the Indonesian Judicial System." *Jurnal Cakrawala Hukum* 15, no. 1 (April 1, 2024): 80–90. https://doi.org/10.26905/idjch.v15i1.14276.

Rezah, Farah Syah, and Andi Tenri Sapada. "The Independence and Accountability of the Constitutional Court in the Constitutional System in Indonesia." *SIGn Jurnal Hukum* 4, no. 2 (January 5, 2023): 247–60. https://doi.org/10.37276/sjh.v4i2.166.

Rumadan, Ismail. "Eksistensi Pengadilan Pajak Dalam Sistem Peradilan Di Indonesia." *Jurnal Hukum Dan Peradilan* 1, no. 1 (March 30, 2012): 35. https://doi.org/10.25216/jhp.1.1.2012.35-62.

Sarma, Bidish. "Finality Is Not the Last Word." *Akron Law Review* 59, no. 3 (2026): 619–43. https://ideaexchange.uakron.edu/akronlawreview/vol59/iss3/3.

Sevilla-Bernabéu, Benjamín, and Estrella Del-Valle-Calzada. "Tax Policies with a Human Rights Perspective: Towards Greater Tax Justice." *South African Journal of Accounting Research* 38, no. 3 (September 16, 2024): 264–77. https://doi.org/10.1080/10291954.2024.2348042.

Taqwallah, Taqwallah, and Sigit Nurhadi Nugraha. "Tax Justice: A Study of Value Added Tax (VAT) Policy in Indonesia." *Journal of Public Representative and Society Provision* 6, no. 1 (January 29, 2026): 144–63. https://doi.org/10.55885/jprsp.v6i1.754.

Wantu, Fence M, and Irlan Puluhulawa. "Demanding Progressive Judges' Decisions for Fulfillment of Justice for Disputing Parties." *Jurnal Legalitas* 16, no. 1 (April 17, 2023): 87–98. https://doi.org/10.33756/jelta.v16i1.18435.

Widia, Gilang, and Tjip Ismail. "The Change In Status Of The Tax Court Based On The Constitutional Court Decision Number 26/Puu-Xxi/2023." *JHSS (Journal Of Humanities And Social Studies)* 7, no. 3 (June 12, 2024): 887–92. https://doi.org/10.33751/JHSS.V7I3.9771.