Determinants of Secondary Adjustment Tax Disputes in Transfer Pricing: An Empirical Study in the Indonesian Context

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ABSTRACT

Tax disputes involving secondary adjustments in transfer pricing at the Indonesian Tax Court have risen, despite a decline in cases filed by the Directorate General of Taxes between 2021 and 2023. This study examines the underlying causes of these disputes through Root Cause Analysis (RCA) and Fishbone Diagrams. The analysis draws on 358 court rulings, a comprehensive literature review, and semi-structured interviews with eight key stakeholders, including judges, tax auditors, tax objection officers, and tax consultants. The findings highlight several critical factors contributing to these disputes. These include the lack of a clear definition for disguised dividends—an issue arising from the application of secondary adjustments under Indonesian regulations—varying interpretations of Ministry of Finance Regulation No. 22/2020, limited technical competence among tax auditors, and aggressive tax audit targets. These factors create legal uncertainty and increase the likelihood of disputes. To address these challenges, the study recommends clarifying relevant regulations, strengthening tax auditor training programs, and shifting the focus of tax audits from quantity to quality. Implementing these measures is expected to enhance legal certainty, reduce the frequency of disputes, and contribute to a more robust and effective tax administration system in Indonesia.

Keywords: Secondary Adjustment; Transfer Pricing; Tax Disputes; Indonesian Tax Court; Root Cause Analysis

Akar Masalah Sengketa Pajak Penyesuaian Sekunder dalam Penetapan Harga Transfer: Analisis dan Solusi untuk Indonesia

ABSTRAK

Sengketa pajak terkait secondary adjustment dalam transfer pricing di Pengadilan Pajak Indonesia meningkat, meskipun jumlah total kasus yang diajukan oleh Direktorat Jenderal Pajak menurun antara 2021 dan 2023. Penelitian ini menganalisisi akar penyebab sengketa menggunakan Root Cause Analysis (RCA) dan Fishbone Diagram. Data mencakup 358 putusan pengadilan, tinjauan literatur, dan wawancara semi-terstruktur dengan delapan narasumber, termasuk hakim, pemeriksa pajak, penelaah keberatan, dan konsultan pajak. Temuan menunjukkan bahwa definisi dividen terselubung yang tidak jelas—yang diadopsi sebagai konsekuensi dari secondary adjustment menurut regulasi Indonesia—perbedaan interpretasi Peraturan Menteri Keuangan No. 22/2020, keterbatasan kompetensi pemeriksa pajak, dan target audit yang agresif menjadi penyebab utama sengketa. Penelitian ini merekomendasikan klarifikasi regulasi, peningkatan pelatihan pemeriksa pajak, dan fokus audit pada kualitas daripada kuantitas. Langkah-langkah ini diharapkan dapat meningkatkan kepastian hukum, mengurangi sengketa, dan memperkuat sistem administrasi perpajakan di Indonesia.

Kata Kunci: Secondary Adjustment; Transfer Pricing; Sengketa Pajak; Pengadilan Pajak; Root Cause Analysis

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INTRODUCTION

The digital revolution has accelerated globalization, fostering closer connectivity between countries by eliminating geographical boundaries and facilitating the rapid exchange of information, trade, culture, and economic activities (Hermawanto & Anggraini, 2020). The advancement and widespread application of technology have been key drivers of this transformation (Daniels, Radebaugh, & Sullivan, 2013). Within this evolving landscape, multinational enterprises (MNEs) have emerged as dominant actors, expanding their operations across multiple jurisdictions and leveraging cross-border transactions to optimize business strategies (Singh, 1998). MNEs frequently engage in intercompany transactions involving the transfer pricing of goods, services, and intangibles (Hejazi, 2009). However, these transactions pose significant challenges, particularly in the realm of international taxation.

Companies no longer confine their operations to their home countries but instead expand globally by establishing subsidiaries and branches in emerging and high-growth markets (Santoso, 2004). Multinational enterprises, characterized by operations in multiple countries while maintaining a central control hub in a single jurisdiction, play a crucial role in international business (Darussalam, Septriadi, & Kristiaji, 2013). This expansion has been largely driven by increased investment flows. Data from the Ministry of Investment/Investment Coordinating Board (BKPM) for the first quarter of 2024, as illustrated in Figure 1, indicates a year-on-year (YoY) investment growth of 22.1%. These figures highlight the role of globalization in fostering international economic integration and driving substantial cross-border investment growth.

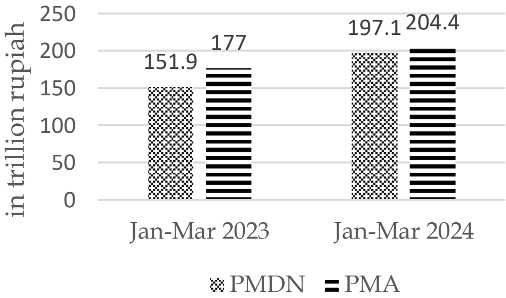

Figure 1. Investment Realization in the First Quarter of 2024

Source: Research Data, 2024.

Transfer pricing refers to the agreed-upon price for goods or services exchanged between affiliated entities in financial and business transactions (Gunadi, 2007). Multinational enterprises (MNEs) frequently employ transfer pricing strategies for managerial purposes, enhancing efficiency and synergy across their operations (Schön & Konrad, 2011). The existence of a special relationship between affiliated entities means that pricing in cross-border transactions can influence the tax base across multiple jurisdictions. However, these transfer pricing arrangements often lead to disputes between tax authorities and corporations. The complexity of these disputes has increased with the introduction of secondary adjustments, which aim to correct transfer pricing discrepancies based on the arm's length principle.

The expansion of MNEs has been accompanied by growing tax challenges, particularly in countries where they maintain substantial operations (Solilová, 2013). Unfair transfer pricing practices can result in profit shifting to low- or zero-tax jurisdictions, thereby eroding national tax revenues and exacerbating economic inequality (Sikka & Willmott, 2010). Disputes related to transfer pricing often revolve around whether transactions between related entities comply with the arm's length principle and whether secondary adjustments made by tax authorities are justified (Chambers and Partners, 2024). In Indonesia, the Directorate General of Taxes (DGT) enforces the arm's length principle through Minister of Finance Regulation No. 172/2023, which replaces previous regulations and applies to the 2024 tax year. This regulation introduces a structured transfer pricing analysis framework, covering transaction identification, industry analysis, comparability assessments, and the application of arm's length pricing methods, all aimed at improving tax compliance and transparency.

In Indonesia, disputes related to transfer pricing, particularly secondary adjustments, have shown a significant and concerning increase. In recent years, the number of tax disputes involving secondary adjustments has surged, leading to prolonged legal proceedings and heightened uncertainty for businesses. These disputes often escalate to the Tax Court, creating ongoing tensions between taxpayers and the Directorate General of Taxes (MUCGlobal, 2022). The rise in litigation stems from various factors, including discrepancies in interpretation and procedural inconsistencies between tax authorities and taxpayers (Baker McKenzie, 2022). Additionally, unclear tax regulations and ambiguities in their application further contribute to the growing number of disputes (Defi & Hapsari, 2024). The increasing frequency of these disputes, which undermine legal certainty and negatively impact the business climate, underscores the need for government intervention to ensure greater regulatory clarity and consistency in tax administration.

Table 1. Number of Dispute Files by Appellant/Defendant 2021-2023

No	Appellant/Defendant	2021	2022	2023
1.	Directorate General of Taxes	12.317	11.602	10.038

Source: Tax Court Secretariat website, 2024, 2024

According to data from the Tax Court Secretariat, the total number of disputes filed by the Directorate General of Taxes (DGT) has generally declined, as shown in Table 1. However, further verification with the Directorate of Objections and Appeals reveals that disputes specifically related to secondary adjustments have exhibited an increasing trend between 2021 and 2023. This discrepancy is illustrated in Figure 2, highlighting a significant anomaly in the overall pattern of tax disputes.

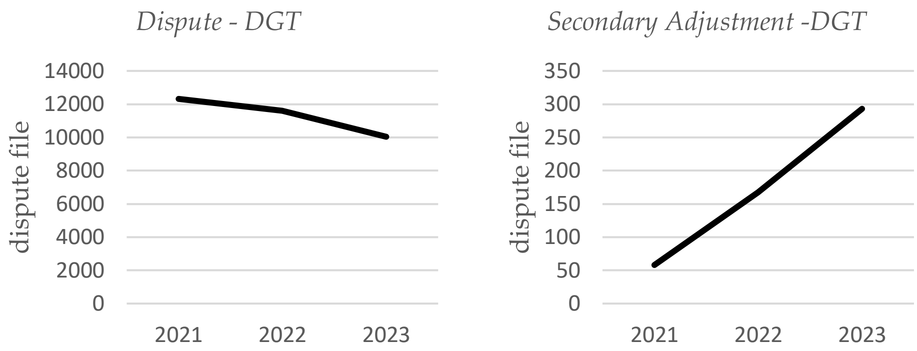

Figure 2. Anomalies in DGT Dispute Statistics with Secondary Adjustment Issue

Source: Research Data, 2024

The increasing number of tax disputes involving secondary adjustments raises a critical question: why have such disputes continued to rise despite the issuance of various regulations by the Directorate General of Taxes (DGT)? Furthermore, what measures can be implemented to prevent similar disputes in the future? This study seeks to address these questions by conducting an in-depth analysis of Tax Court decisions from 2021 to 2023 related to secondary adjustments. Additionally, the study examines the applicable regulatory framework and explores potential solutions that tax authorities can adopt to mitigate disputes.

A primary adjustment refers to a correction made by the tax authority in the first jurisdiction to a company's taxable profit due to the application of the arm's length principle in transactions between affiliated entities in another jurisdiction (OECD, 2022). The discrepancy between the transaction value influenced by the special relationship and the value that would have been applied under independent market conditions is considered an indirect profit distribution to the affiliate. In Indonesia, this distribution is treated as a dividend under Minister of Finance Regulation No. 22 of 2020. This adjustment, classified as a secondary adjustment in the OECD Transfer Pricing Guidelines (2022), imposes additional tax consequences on these transactions.

Figure 3 illustrates a simulation of a secondary adjustment in a related-party transaction involving PT ABC, a domestic company, and XYZ Corp, a foreign affiliate. In the initial transaction, PT ABC sold goods to XYZ Corp at a price of USD 100 per unit. However, upon audit, the tax authority determined that this price did not comply with the arm’s length principle and adjusted the value to USD 120 per unit. This scenario exemplifies how secondary adjustments are applied and highlights the potential for disputes arising from differing interpretations of transfer pricing regulations.

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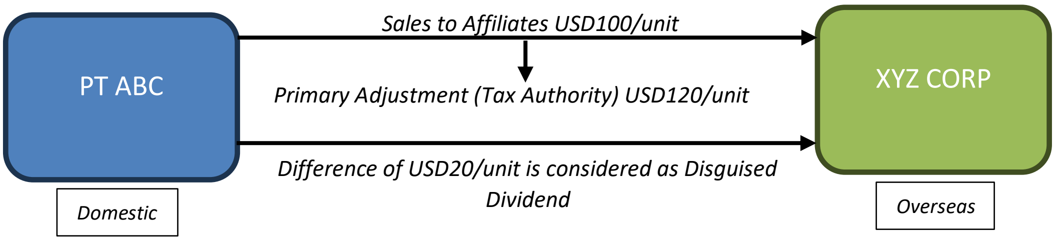

Figure 3. Secondary Adjustment Simulation
Source: Research Data, 2024.

As an initial step, the tax authority implemented a primary adjustment by revising the transaction price to USD 120 per unit. The USD 20 per unit discrepancy was deemed a hidden profit that XYZ Corp continued to benefit from economically. Consequently, this amount was classified as a constructive dividend or disguised dividend and became subject to income tax under the applicable regulations.

Several previous studies have examined the primary causes of tax disputes that escalate to the Tax Court. Research identifies regulatory ambiguity, differences in interpretation between taxpayers and tax authorities, and evidentiary weaknesses as key factors contributing to disputes (Aisya, Defi and Hapsari, Palupiningrum, & Prasetyo, 2024).

Many of these conflicts arise from inconsistent application of the Fairness and Usuality Principle (PKKU) and insufficient documentation, leading to legal uncertainty.

Effective and well-defined regulations play a crucial role in supporting economic growth by facilitating business restructuring and efficient resource allocation. Conversely, poorly formulated regulations can hinder economic progress (Karkalakos, 2024). In an increasingly globalized economic environment, unclear tax regulations create uncertainty, which can strain relations between the government and multinational corporations (Aisya, S., & Nuryanah, S., 2024). This study is particularly relevant, as transfer pricing-related tax disputes not only affect a country's fiscal stability but also impact legal certainty and taxpayer compliance.

RESEARCH METHOD

A qualitative research approach was selected for this study due to its effectiveness in exploring the experiences, attitudes, and perspectives of stakeholders in depth. Recognizing that facts are perceived subjectively and may vary among individuals, qualitative methods allow for a nuanced understanding of complex issues (Creswell, 2014). This study employs a case study method to analyze tax disputes related to secondary adjustments in transfer pricing, drawing on Tax Court appeal decisions from 2021 to 2023. Case studies offer flexibility in examining intricate issues that cannot be fully addressed through quantitative methods, particularly in disputes involving regulatory interpretation, litigation, and tax policy (Yin, 2017). This approach is designed to answer key research questions regarding the root causes of disputes and potential measures to mitigate future conflicts.

To systematically identify the underlying factors driving tax disputes, this study applies Root Cause Analysis (RCA), a method introduced by Andersen and Fagerhaug (2006) to investigate the fundamental causes of problems and prevent their recurrence. RCA is particularly valuable in understanding the factors contributing to the rise in disputes related to secondary adjustments in transfer pricing from 2021 to 2023. The RCA process follows a structured sequence: (1) problem identification, (2) data collection, (3) data analysis, (4) identification of immediate causes, (5) identification of root causes, and (6) implementation of corrective measures. The conceptual framework for this analysis is illustrated in Figure 4.

To further examine the root causes of these disputes, this study utilizes the Fishbone (Ishikawa) diagram, which categorizes contributing factors in a structured manner. Fishbone diagrams facilitate the breakdown of complex problems into distinct categories, enabling a more precise identification of solutions (Tague, 2005). By visually mapping the primary causes of tax disputes arising from secondary adjustments in transfer pricing, this tool enhances the analysis of systemic issues and informs the development of targeted policy recommendations.

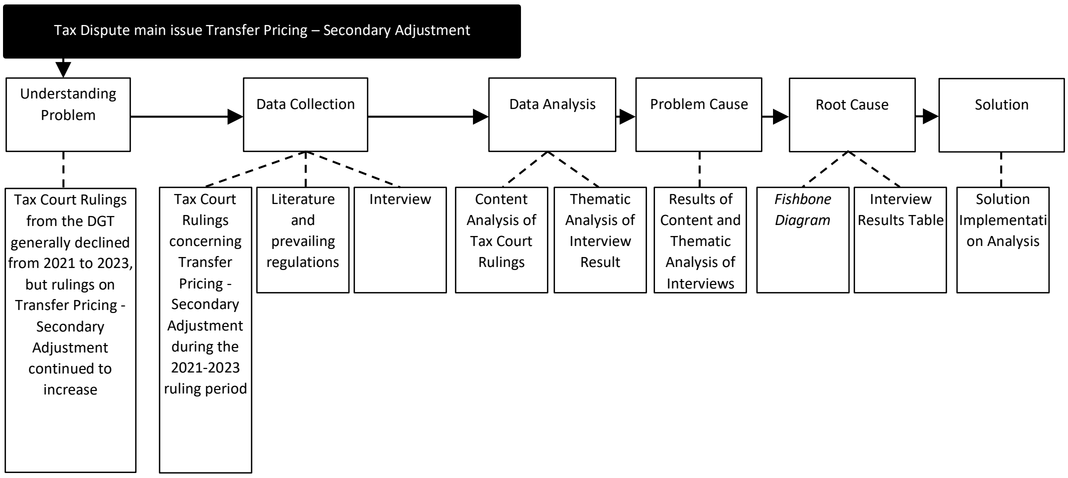

Figure 4. Research Conceptual Framework

Source: Research Data, 2024.

This study utilizes data from multiple sources, including a literature review, court decisions, and interviews with relevant stakeholders. The literature review incorporates academic sources such as peer-reviewed journals, articles, and applicable tax regulations to provide a comprehensive theoretical foundation. A recapitulation of Tax Court decisions involving secondary adjustments was obtained from the Directorate of Objections and Appeals, Directorate General of Taxes. Additionally, Tax Court appeal decisions were collected from the official website of the Tax Court Secretariat, focusing on cases related to secondary adjustments in transfer pricing from 2021 to 2023.

To gain deeper insights into the issues under investigation, this study employs a semi-structured interview method, which allows for flexible yet systematic data collection (Stake, 2010). This approach facilitates in-depth exploration of stakeholders' perspectives, ensuring that relevant information is captured while allowing interviewees to elaborate on key issues. An overview of the interview process is presented in Table 2.

Table 2. Data Sources

No.	Code	Institution	Position	Number of Respondents	Interview Method
1	HK	Tax Court	Judge	1	Face to Face
2	FP	Directorate General of Taxes	Functional-Tax Auditor	3	Zoom
3	PK	Directorate General of Taxes	Objection Reviewer	3	Zoom
4	KP	Taxpayer/Tax Consultant	Tax Consultant	1	Google Meet

Source: Research Data, 2024

This study employs two primary analytical techniques: content analysis and thematic analysis of interviews. Content analysis is used to examine Tax Court decisions, focusing on identifying recurring patterns in cases involving secondary adjustments. Once the appeal decisions were collected, they were categorized based on key aspects such as the dispute value, the arguments presented by both parties, and the nature of the dispute. This classification facilitates the identification of common patterns and legal arguments, allowing for a deeper understanding of the underlying causes of disputes.

The content analysis revealed that out of a total population of 507 Tax Court decisions, the number of relevant cases decreased to 358 decisions (70.61%) after reaching the saturation point in the analysis. The clustering process enabled the identification of patterns and trends in court rulings, providing valuable insights into the factors influencing judicial outcomes in secondary adjustment disputes.

Table 3. Population After Reaching Saturation

No.	Verdict	Initial Population	After Reaching Saturation	%
1.	Increase tax payable	1	1	100.00%
2.	Partially Granting the Appeal	51	47	92.16%
3.	Granting the Appeal in its entirety	379	246	64.91%
4.	Reject the Appeal	68	57	83.82%
5.	Unacceptable	8	7	87.50%
	Total	507	358	70.61%

Source: Research Data, 2024

The interview data were analyzed using thematic analysis, a method designed to identify key themes relevant to the research questions. The process began with transcribing the interviews, followed by categorizing and analyzing responses to identify recurring patterns and themes. Irrelevant information was excluded to enhance the precision and reliability of the findings. This approach enabled a deeper understanding of the examination, objection, and appeal processes related to secondary adjustment disputes.

Yin (2017) emphasizes the importance of validity and reliability in qualitative research. In this study, data validity was ensured through triangulation, which involved cross-referencing decision analysis, interview findings, and literature review results. Data reliability was strengthened by implementing a systematic analytical process and conducting saturation testing on the interview data to ensure that all relevant dimensions were comprehensively covered. By employing this rigorous approach, the study effectively addresses the root causes of disputes and explores potential solutions for mitigating future conflicts.

RESULT AND DISCUSSION

Previous research has identified several factors contributing to tax disputes that escalate to the Tax Court. To facilitate a structured analysis, these causes were categorized using the 4M framework—Material, Method, Man, and Management—based on the Fishbone Diagram model, as illustrated in Figure 4. This categorization provides a systematic approach to identifying the underlying causes of disputes.

To enhance analytical precision, the study further refines these categories by aligning them with the content analysis findings and interview results. This refinement ensures a more accurate and focused representation of the key dispute factors. Accordingly, the study adopts four primary categories: Juridical, Evidence, Tax Auditor, and Policy, which more effectively capture the root causes of secondary adjustment disputes in transfer pricing.

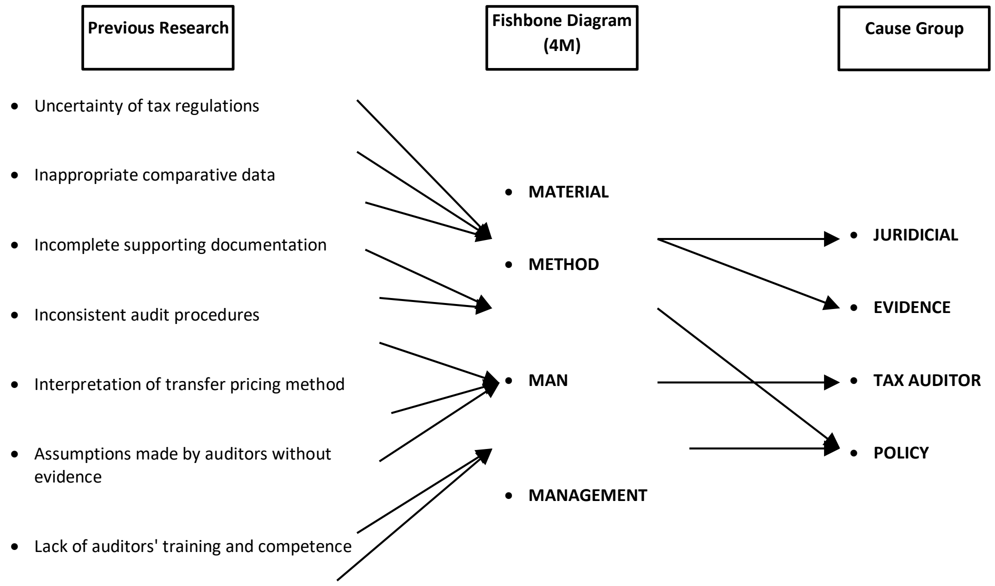

Figure 5. Tax Dispute Causal Diagram

Source: Research Data, 2024

As one Tax Consultant noted:

> "*Previous court decisions, although not binding, have persuasive value. Judges are free to follow them or not, but these decisions must be considered, especially when cases involve similar disputes and the same taxpayers.*" (KP)

Similarly, tax auditors recognize the relevance of past decisions in examining and resolving tax disputes. Prior rulings help tax examiners understand judicial reasoning, evaluate legal arguments, and focus on key issues in similar cases:

"*Examiners use them to understand the reasoning behind judges' decisions, evaluate arguments used in similar cases, and focus attention on key issues. Although their use is situational, past decisions have proven helpful in strategizing the examination and improving the quality of the arguments presented.*" (FPP1, FPP2, FPP3)

Content analysis of Tax Court decisions reveals inconsistencies in judicial rulings on cases with similar dispute grounds, creating legal uncertainty for taxpayers. To further substantiate these findings, interviews with key stakeholders were conducted. One judge explained:

"*Decisions between judges can differ due to differences in interpretation. Some judges consider direct ownership of shares, while others interpret ownership as both direct and indirect. This difference in understanding leads to varying conclusions—some judges may consider a party to have ownership, while others do not, even though the party is indirectly used as a vehicle for equity participation. This demonstrates the diversity of judicial perspectives in resolving disputes.*" (HKM)

Such non-standard judicial considerations contribute to legal uncertainty, discouraging taxpayers from defending their rights.

The effectiveness of transfer pricing audits is often hindered by inadequate documentation and a lack of transparency in financial reports, making it difficult for tax authorities to assess the fairness of intercompany transactions. This challenge frequently leads to primary adjustments (Kamei, 2022). Secondary adjustments, in turn, are a direct consequence of primary adjustments, as tax authorities extend corrections beyond the initial transaction.

Content analysis of Tax Court decisions reveals that judicial rulings on secondary adjustment disputes are often linked to primary adjustments made under corporate income tax regulations. However, many decisions lack detailed explanations regarding the evidentiary basis for secondary adjustments. A Tax Court judge explained this relationship:

"*Disputes usually arise from the corrections made at the primary adjustment stage. In some cases, tax auditors make corrections, while in others, they do not. As a judicial institution, the Tax Court is independent and does not have the authority to introduce new corrections if the auditor did not make them initially. The dispute originates from the auditor's decision to make a correction and whether the taxpayer, as the appellant, agrees or disputes the correction. This is the root of the dispute.*" (HKM)

Similarly, tax consultants emphasize that secondary adjustments cannot exist independently; they are intrinsically linked to primary adjustments in corporate income tax corrections:

"*Decisions on secondary adjustments typically align with those on corporate income tax, which serves as the basis for the primary adjustment. If the primary adjustment is substantiated and upheld by the Tax Court, the ruling on secondary adjustments—such as those under Income Tax Article 26—will typically follow. In other words, decisions on primary adjustments*

> *and Income Tax Article 26 are almost always consistent, with minimal divergence.*" (KP)

An analysis of a specific Tax Court ruling (Put-001022.35/2021/PP/M.XIVB/Year 2022) highlights the lack of a clear juridical or evidentiary basis in secondary adjustment decisions. This finding reinforces the strong dependence of secondary adjustments on primary adjustments as a justification for their application.

Interviews with tax auditors (FPP1, FPP2, FPP3) further confirm that secondary adjustments are contingent on primary adjustments:

> "*The main focus in tax disputes is primary adjustment, which involves correcting transactions with the highest potential for tax avoidance to ensure that transaction values are fair. Secondary adjustments often follow, particularly in corporate income tax cases. However, secondary adjustments apply only to transactions that meet specific criteria, such as disguised dividends.*" (FPP1, FPP2, FPP3)

Objection reviewers (PK1, PK2, PK3) also support this view, emphasizing that the resolution of secondary adjustment disputes depends entirely on the validity of the primary adjustment:

> "*The resolution of secondary adjustment disputes depends entirely on the clarity of the primary adjustment. If the primary adjustment is upheld, resolving the secondary adjustment is straightforward, as it follows from the primary correction. Conversely, if the primary adjustment is overturned or lacks sufficient legal support, the secondary adjustment automatically becomes invalid.*" (PK1, PK2, PK3)

Evidence plays a critical role in judicial rulings. Analysis of Tax Court decisions indicates that evidentiary issues were a major factor in cases where the DGT lost. As shown in Table 4, 64.80% of the rulings that fully ruled in favor of taxpayers were dominated by disputes over evidentiary shortcomings.

Table 4. Evidentiary Dispute Content Analysis Results

Disputes	Increase tax payable	Partially Granting the Appeal	Granting the Appeal in its entirety	Reject the Appeal	Unacce ptable	Total
Evidence	1	46	224	56	7	334

Source: Research Data, 2024

The findings from interviews further reinforce the analysis of secondary adjustment disputes. Tax auditors exercise professional judgment when determining whether a transaction requires correction, particularly in cases involving disguised dividends. However, the outcome of these corrections often varies depending on the examiner's interpretation of the transaction's characteristics. One judge explained:

> "*Tax auditors use professional judgment to determine whether a transaction needs to be corrected or not. This decision depends on their assessment of the facts, including whether the transaction can be considered a disguised dividend. Therefore, the result of the correction may vary, depending on the examiner's interpretation of the characteristics of the transaction under examination.*" (HKM)

From the tax authority's perspective, both tax auditors and objection reviewers agree with the Tax Court judge's assessment.

Content analysis reveals that taxpayers frequently challenge the professionalism of examiners in primary adjustments, citing weak legal argumentation, procedural inconsistencies, and disregard for evidence as key reasons for escalating disputes to court. Examiner professionalism can be categorized into two main factors: technical competence and subjectivity. Taxpayers' arguments often highlight issues such as misapplication of legal provisions, misinterpretation of business models, inaccurate transaction analysis, inconsistencies in corrections across reporting periods, and failure to conduct reasonableness tests on operating profits. These concerns were further validated through interviews with stakeholders involved in secondary adjustment disputes. One tax consultant explained:

> "*Usually, arguments related to the definition of dividends have been built since the audit stage through responses to the SPHP (Notice of Audit Results). Taxpayers often reject secondary adjustment corrections on the grounds that the examiner uses an incorrect legal basis. This argument then continues to the objection process, appeal, and so on in an effort to reject the proposed correction.*" (KP)

The limited expertise of tax auditors in handling complex transfer pricing cases, particularly in Special Tax Offices for Foreign Investment (KPP PMA), has also been identified as a significant issue. The lack of specialized training and technical competence often results in weak evidentiary support for corrections, procedural inconsistencies, increased reliance on assumptions rather than data-driven analysis, and failure to consult with taxpayers before making adjustments. These deficiencies significantly contribute to the escalation of disputes to the appeal stage. The tax authorities themselves acknowledge the need to improve examiner competence to enhance professionalism in handling these cases. One objection reviewer noted:

> "*Examiners often consider transfer pricing (TP) as a prohibited practice, whereas TP or tax planning is a normal part of business. What is prohibited is tax avoidance, so TP examination should focus on proving the existence of tax avoidance, which unfortunately is often overlooked.*" (PK1)

Internal policies that prioritize revenue collection over audit quality create pressure on auditors to issue large tax assessment letters (SKP). Consequently, evidentiary accuracy and objectivity in corrections are often compromised, leading to overly aggressive tax adjustments, a focus on maximizing tax revenue rather than ensuring compliance, and a higher likelihood of disputes escalating to court.

Weaknesses in audit procedures also play a role in the increasing number of disputes. Tax auditors frequently apply inappropriate or irrelevant legal provisions and fail to provide sufficient evidence to support adjustments. Content analysis of Tax Court decisions reveals that PMK-22/2020 is frequently used as the legal basis for secondary adjustments. Before its enactment, secondary adjustments were only briefly mentioned in the appendices of PER-22/2013 and SE-50/2013, which regulated "overpayments" to affiliates. This lack of clear regulatory guidance caused uncertainty and hesitation among tax authorities in applying secondary adjustments before 2021. However, after PMK-22/2020 was introduced, tax auditors became more confident in utilizing the rule. One tax auditor explained:

> "*However, after PMK-22/2020 appeared, auditors had no choice but to adjust. This shows that the tax authority has already decided that the adjustment is necessary.*" (FPP1)

A tax consultant representing taxpayers in Tax Court trials confirmed this shift in enforcement:

> "*Since the enactment of PMK-22/2020, there has been a significant surge in the application of secondary adjustment. This regulation provides a stronger legal basis for DGT, unlike previously which was only regulated in PER and SE, often only in the appendix. With PMK-22, DGT has clearer legal standing and authority to conduct secondary adjustment, making it the main factor that triggered the increase in cases.*" (KP)

The DGT Head Office closely monitors the enforcement of secondary adjustments through internal supervisory mechanisms. An objection reviewer confirmed that tax examiners receive internal instructions regarding the appropriate application of PMK-22/2020:

> "*DGT through the Head Office internally supervises the application of secondary adjustment corrections by examiners by ensuring the use of PMK-22/2020 as the appropriate legal basis. Reinforced by the existence of internal instructions such as Service Memorandum (ND-178), which is designed to ensure the correct application of PMK-22/2020. This ND provides guidance to auditors regarding the appropriate procedure in making corrections, which then becomes a particular concern in the objection process filed by taxpayers.*" (FPP2, PK2)

The improper application of secondary adjustments before 2020, combined with ambiguities in Advanced Pricing Agreement (APA) regulations, has led to a significant increase in tax disputes before the Tax Court. Defi and Hapsari (2024) also noted the sharp rise in disputes following the enactment of PMK-22/2020.

Primary adjustments in corporate income tax disputes frequently trigger secondary adjustments across various transaction types and tax periods, often involving large dispute values. Auditors confirmed that one of the key reasons for escalating disputes is the unrealistically high revenue targets imposed by tax authorities. One tax auditor explained:

> "*The audit process should focus on law enforcement, not on revenue targets. Revenue targets can compromise objectivity and lead to inappropriate corrections. Alternatively, performance indicators (KPIs) should measure the quality of work, such as timely completion of examinations or the number of evidence collected, to better reflect the professionalism of examiners.*" (FPP2)

Objection reviewers shared similar concerns, arguing that a focus solely on revenue collection undermines audit professionalism, particularly in Special Regional Tax Offices that frequently handle transfer pricing cases.

The root cause identification process used a Fishbone Diagram approach (Figure 6) that categorized the main problems into juridical, evidentiary, examiner, and policy categories. Next, Root Cause Prioritization was conducted to assess the impact, frequency, and relevance of solutions. The figure can answer the research

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question: "What are the causes of tax disputes related to Secondary Adjustment issues in Transfer Pricing that arise based on Tax Court Appeal Decisions from 2021 to 2023?"

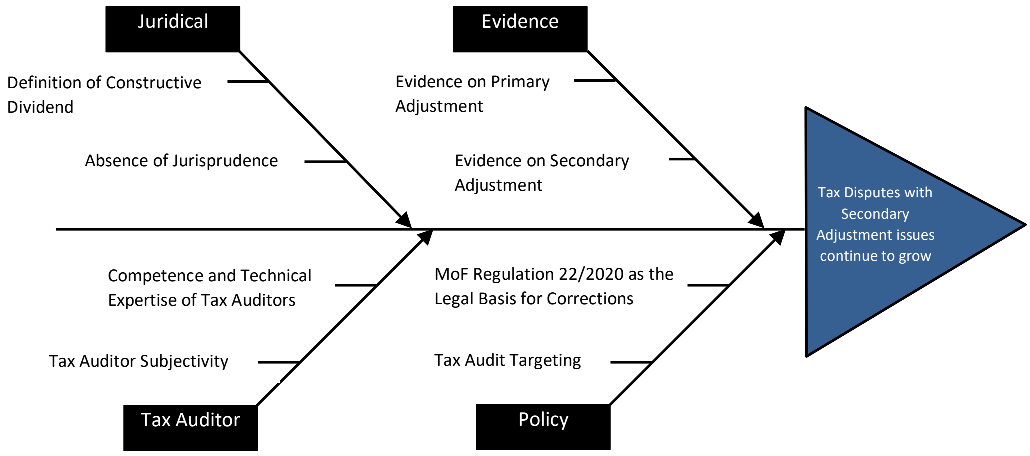

Figure 6. Fishbone Diagram of the Causes of Secondary Adjustment Tax Disputes continue to grow

Source: Research Data, 2024

In the next stage of Root Cause Analysis (RCA), Root Cause Prioritization is conducted by assessing relatedness, frequency, and impact. Each root cause is evaluated to determine its significance, recurrence, and feasibility of resolution. Based on this assessment, priority areas for improvement are identified to ensure an effective and efficient resolution of the problem. The analysis reveals that the unclear definition of disguised dividends in tax regulations is the primary cause of disputes, further exacerbated by the limited competence of tax auditors and policy-driven pressures, particularly the implementation of PMK-22/2020. These factors have led to widespread and inconsistent tax corrections, ultimately resulting in a surge of tax disputes related to secondary adjustments.

This study identifies three key factors contributing to secondary adjustment disputes: regulatory ambiguity regarding disguised dividends, weaknesses in tax auditor competence, and policy pressures emphasizing revenue targets. To address these issues, three main recommendations are proposed: (1) revising tax regulations to clarify the definition of disguised dividends, (2) enhancing tax auditor training with a focus on transfer pricing, and (3) revising audit target policies to emphasize quality over revenue collection. Implementing these measures is expected to minimize potential disputes in the future.

CONCLUSION

This study finds that the increasing number of tax disputes related to secondary adjustments in the Indonesian Tax Court reflects uncertainty and weaknesses in the implementation of transfer pricing regulations. Through qualitative analysis using Root Cause Analysis (RCA) and the Fishbone Diagram, the primary causes of these disputes have been identified as the lack of clarity in the definition of constructive dividends, inconsistencies in the interpretation of Minister of Finance Regulation No. 22/2020, the limited technical expertise of tax auditors, and policy-driven audit targets. These factors complicate regulatory enforcement and contribute to the prolonged resolution of tax disputes.

To mitigate future disputes, the primary recommendation is to clarify the definition of constructive dividends in tax regulations to ensure uniform interpretation between tax authorities and taxpayers. Additionally, tax auditors should receive enhanced training in transfer pricing, particularly in the application of secondary adjustments, to reduce errors and subjectivity in tax assessments. Furthermore, audit policies should be revised to prioritize audit quality over revenue collection, fostering a fairer and more objective tax examination process while minimizing potential disputes.

This study has several limitations. First, the findings are primarily based on case studies of tax court rulings, which may limit their generalizability across the broader landscape of transfer pricing disputes. Additionally, the interview-based methodology may introduce interpretive bias, particularly regarding the perspectives of specific stakeholders involved in dispute resolution. Moreover, the sample size of interviewees was limited, which may not fully capture the diverse viewpoints within the dispute resolution process.

Future research should consider a quantitative approach to obtain more representative data and strengthen the generalizability of findings. Further studies are also recommended to examine the economic impact of secondary adjustment disputes on Indonesia's investment climate and to assess the effectiveness of regulatory changes, such as the revised PMK-22/2020. Additionally, collaborating with various stakeholders, including taxpayer representatives and tax authorities, could provide a more comprehensive perspective on this issue and contribute to the development of more effective policy solutions.

REFERENCES

Aisya, S., & Nuryanah, S. (2024). Tax Dispute Analysis of Transfer Pricing Case Study of Tax Court. *JMKSP (Jurnal Manajemen, Kepemimpinan, dan Supervisi Pendidikan), 9(1)*, 481-495. doi:https://doi.org/10.31851/jmksp.v9i1.14343

Andersen, B., & Fagerhaug, T. (2006). *Root Cause Analysis Simplified Tools and Techniques: Second Edition.* Milwaukee, Wisconsin: ASQ Quality Press.

Baker McKenzie. (2022). *The Global Landscape of Transfer Pricing Controversy: Trends You Can't Afford to Ignore.* Chicago: Baker McKenzie.

Chambers and Partners. (2024, April 19). *Transfer Pricing 2024 | Global Practice Guides.* Retrieved from Chambers and Partners: https://practiceguides.chambers.com/practice-guides/transfer-pricing-2024

Creswell, J. (2014). *A Concise Introduction to Mixed Methods Research.* SAGE Publications.

Daniels, J., Radebaugh, L., & Sullivan, D. (2013). *International business : environments and operations.* New Jersey: Pearson Education International.

Darussalam, Septriadi, D., & Kristiaji, B. (2013). *Transfer Pricing: Ide, Strategi, dan Panduan Praktis dalam Perspektif Pajak Internasional.* Jakarta: DDTC.

Defi, & Hapsari, N. (2024). A Critical Analysis of the Recent Regulatory Developments in Secondary Adjustments. *Asia-Pacific Tax Bulletin, 2024 (Volume 30), No. 2*. doi:https://doi.org/10.59403/1mnjca6

Gunadi. (2007). *Pajak internasional edisi revisi.* Jakarta: Lembaga Penerbit Fak. Ekonomi UI.

Hejazi, J. (2009). *Transfer Pricing: The Basics from a Canadian Perspective.* Canada: LexisNexis.

Hermawanto, A., & Anggraini, M. (2020). Globalisasi, Revolusi Digital dan Lokalitas: Dinamika Internasional dan Domestik di Era Borderless World. Yogyakarta: LPPM UPN VY PRESS.

Kamei, K. (2022). Transfer paradox in a general equilibrium economy: An experimental investigation. *Economics Letters,* , 211, 110253.

Karkalakos, S. (2024). The Economic Consequences of Legal Framework. *Statute Law Review, Volume 45, Issue 2*. doi:http://dx.doi.org/10.1093/slr/hmae024

MUCGlobal. (2022, 09 01). *Secondary Adjustment, Ketidakpastian Baru, dan Potensi Pajak Ganda* . Retrieved from MUC Consulting: https://mucglobal.com/id/news/2935/secondary-adjustment-ketidakpastian-baru-dan-potensi-pajak-ganda

OECD. (2022). *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022.* Paris: OECD Publishing.

Palupiningrum, N., & Rosid, A. (2024). Import Tax Disputes: Identification of Causes. *Jurnal Akuntansi dan Perpajakan, 10(1)*, 75-93. doi:https://doi.org/10.26905/ap.v10i1.11438

Prasetyo, W. N., & Sari, D. (2023). Sengketa Pajak atas Koreksi Biaya Royalti dan Secondary Adjustment (Studi Kasus Putusan Banding PT XYZ). *Riset & Jurnal Akuntansi Vol.7*, 2970. doi:https://doi.org/10.33395/owner.v7i4.1697

Santoso, I. (2004). Advance Pricing Agreement dan Problematika Transfer Pricing dari Perspektif Perpajakan Indonesia. *Jurnal Akuntansi & Keuangan Vol. 6, No. 2*, 123. doi:https://doi.org/10.9744/jak.6.2.pp.%20123-139

Sari, A., & Nuryanah, S. (2023). Analisis Sengketa Pajak Atas Pembatasan Perbandingan Utang dan Modal Perusahaan. *Media Riset Akuntansi Auditing & Informasi, 23 (2)*, 203-224. doi:https://doi.org/10.25105/mraai.v23i2.16956

Schön, W., & Konrad, K. (2011). Transfer Pricing – Business Incentives, International Taxation and Corporate Law. *Working Paper of the Max Planck Institute for Tax Law and Public Finance No. 2011-05*, 1.

Sikka, P., & Willmott, H. (2010). The dark side of transfer pricing: Its role in tax avoidance and wealth retentiveness. *Critical Perspectives on Accounting Vol.21, Issue 4*, 342-356.

Singh, K. (1998). *Memahami Globalisasi Keuangan.* Yakoma PGI.

Siregar, E. (2019). Peran Yurisprudensi dalam Sistem Hukum di Indonesia. *Jurnal Konstitusi 16 (1)*, 83-104. doi:https://doi.org/10.31078/jk1615

Solilová, V. (2013). Transfer Pricing and Safe Harbours. *Acta Universitatis Agriculturae Et Silviculturae Mendelianae Brunensis*, 309.

Stake, R. (2010). *Qualitative Research: Studying How Things Work.* New York City: Guilford Press.
Tague, N. (2005). The quality toolbox. (2th ed.). Dalam *The quality toolbox. (2th ed.).* Milwaukee, Wisconsin: ASQ Quality Press.
Yin (2017). *Case Study Research and Applications: Design and Methods.* SAGE Publications.