

## **Rejection of Judicial Review Petition by the Tax Court: A Legal Analysis of the Legal Basis and Authority**

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### **Abstract**

This research analyzes the legal basis and authority of the Tax Court in rejecting the application for Review (PK) in the process of resolving tax disputes in Indonesia. The research problem focuses on the unclear authority of the Tax Court as the "gateway" of PK administration, while Law No. 14 of 2002 concerning the Tax Court only regulates the reasons and limitations for filing a PK without explicitly mentioning the authority of rejection. The purpose of the study is to identify the legal basis for the rejection of PK by the Tax Court and analyze the scope of its authority in the tax justice system. The research method uses a normative juridical approach with an analysis of laws and regulations, court decisions, and legal literature. The results of the study show that: (1) The authority of rejection comes from the Tax Court Law, PERMA No. 7/2018, and the Decree of the Chairman of the Tax Court; (2) Rejection only applies to PK that violates formal requirements such as second submission, delay, or completeness of documents; (3) The Tax Court is not authorized to assess the substantive grounds of the PK. The implications of the research strengthen legal certainty by emphasizing that the rejection of the PK is an administrative function to maintain judicial efficiency. These findings are useful for legal practitioners and policymakers in understanding the limits of the Tax Court's authority and the importance of fulfilling the formal requirements of the Tax Court. The study also recommends more intensive socialization of PK procedures to reduce rejections due to incompleteness of documents.

**Keywords:** Judicial Review; Tax Court; Tax Dispute; Supreme Court; Procedural Law

### **INTRODUCTION**

The Tax Court is a specialized judicial body that adjudicates tax disputes at the first and final instance (Jamilah et al., 2020; Supriyadi & Supriyadi, 2024; Taborda & Sousa, 2023; Tambunan, 2022). Although its decisions are final and legally binding, parties (both taxpayers and tax authorities) may still pursue an extraordinary legal remedy in the form of judicial review (*Peninjauan Kembali*, or PK) to the Supreme Court. Judicial review in tax disputes is specifically regulated under Law No. 14 of 2002 concerning the Tax Court, which strictly limits the conditions and grounds for its submission (Aulia & Marinda Machdar, 2023; Erwiningsih, 2022; Gotama et al., 2020; Ispriyarso, 2019; (Universitas Islam Kalimantan), 2021). Unlike ordinary appeals, PK does not function as a cassation level but serves as an extraordinary measure to reassess Tax Court decisions based on limited statutory grounds.

While the Supreme Court holds the authority to examine and decide PK petitions, the submission must be made through the Tax Court's clerk office. In practice, this means the Tax Court plays a crucial administrative role in the PK process, including receiving the petition files, verifying their completeness, delivering the PK memorandum to the opposing party (respondent), collecting counter-memoranda, and forwarding the PK dossier to the Supreme Court (Basri & Muhibbin, 2022; Bravestha & Hadi, 2017; Butt, 2019; Dietrich et al., 2019; Situmeang, 2022; Wicaksono & Rahman, 2022). This role raises legal questions regarding the extent of the Tax Court's authority to reject PK petitions. Can the Tax Court refuse a PK submission before it reaches the Supreme Court? If so, what legal basis grants such authority? These questions are central to this article, considering that rejection of PK petitions

by the Tax Court directly affects the parties' access to extraordinary judicial review at the Supreme Court.

Existing studies have explored the procedural aspects of *PK* in tax cases, but they often overlook the Tax Court's specific authority to reject petitions. For example, Anggraeini (2021) examined the institutional relationship between the Tax Court and the Supreme Court, while Mazidah (2022) analyzed the grounds for *PK* submissions. However, none of these studies comprehensively address the legal basis and implications of the Tax Court's rejection authority, leaving a gap in understanding its gatekeeping function.

Cases of *PK* rejection by the Tax Court typically occur under specific circumstances, such as when a second *PK* is submitted (which is prohibited), or when the submission fails to meet formal requirements. Under current tax procedural law, the Tax Court Law explicitly allows only one *PK* submission. Additionally, the timeframe for filing a *PK* is strictly limited to no later than three months from the date the Tax Court decision is delivered (or three months from the discovery of new evidence in the case of *novum*). Other provisions require the petitioner to complete the *PK* submission with specific documents, including the *PK* memorandum, a copy of the decision, proof of receipt of the decision, a statement of *novum* (if applicable), and proof of payment of the *PK* case fee. If these requirements are not met, the Tax Court may reject the *PK* petition. These conditions form the legal basis for the Tax Court to reject or return *PK* petitions before they are forwarded to the Supreme Court.

The primary objective of this research is to elucidate the legal basis and scope of the Tax Court's authority in rejecting *PK* petitions. By doing so, it aims to enhance transparency, reduce frivolous litigation, and promote judicial efficiency. The findings will benefit legal practitioners, policymakers, and taxpayers by clarifying procedural requirements and fostering a more predictable tax dispute resolution system. Ultimately, this research contributes to the broader discourse on judicial governance and the rule of law in Indonesia's tax administration.

This article outlines the legal basis for the Tax Court's rejection of *PK* petitions and analyzes its authority within the framework of the tax judicial system. The discussion begins with the research methodology used (i.e., normative juridical approach), followed by the presentation of findings and analysis in two main sections: (1) Legal Basis for Rejection of *PK* Petitions by the Tax Court, and (2) Authority of the Tax Court in Rejecting *PK* Petitions. Through this analysis, it is expected to be clearly demonstrated that the Tax Court's rejection of certain *PK* petitions is not arbitrary, but rather grounded in positive law and intended to uphold procedural order in tax litigation. The conclusion affirms that the Tax Court's limited authority in this context aligns with its duty to enforce formal requirements, while the substantive examination of tax disputes through *PK* remains under the jurisdiction of the Supreme Court.

## RESEARCH METHODS

This study employs a *normative legal research method (juridical normative)*, utilizing both statutory and conceptual approaches. The data used in this research consists of secondary data, which includes primary, secondary, and tertiary legal materials. Primary legal materials comprise relevant legislation, including Law No. 14 of 2002 on the Tax Court, the Law on the Supreme Court (and its amendments), as well as Supreme Court regulations and internal rules of the Tax Court related to judicial review (*Peninjauan Kembali* or *PK*). Secondary legal materials are drawn from tax law literature, scholarly articles, legal news sources, and expert opinions that support the analysis. Tertiary legal materials include legal dictionaries, encyclopedias, and other reference tools that aid in understanding legal terminology and concepts. Data collection was conducted through *library research*, involving the examination of legal documents and publications relevant to the topic. The *statute approach* was used to analyze normative provisions governing judicial review in tax cases, while the *conceptual*

*approach* was applied to understand the concept of judicial authority within the context of tax adjudication. Data analysis was carried out using a *descriptive-qualitative method*, linking legal norms with their practical implementation in the Tax Court.

## RESULTS AND DISCUSSION

### Legal Basis for the Rejection of Judicial Review Petitions by the Tax Court

#### a. Statutory Provisions on Judicial Review in Tax Cases

The primary legal basis governing judicial review (PK) of Tax Court decisions is found in Law No. 14 of 2002 on the Tax Court. This law establishes the framework that judicial review in tax cases may only be submitted once and must be filed through the Tax Court as an intermediary to the Supreme Court. Article 89(1) of the Tax Court Law explicitly states that a judicial review petition “may only be submitted once to the Supreme Court through the Tax Court”. Accordingly, the law expressly prohibits the submission of a second judicial review (PK II) for the same tax dispute. Furthermore, Article 89(2) affirms that the submission of a PK does not suspend the execution of the Tax Court’s decision, meaning the decision must still be implemented even if a PK is filed. Article 89(3) allows for the withdrawal of a PK petition before a decision is rendered, with the consequence that a withdrawn PK cannot be resubmitted.

The Tax Court Law also outlines limited grounds upon which a PK may be submitted. Article 91 specifies five permissible reasons:

- a) Discovery of fraud or false evidence revealed after the decision (fraud/deception).
- b) Discovery of new written evidence (novum) that is decisive.
- c) Granting of claims beyond what was requested.
- d) Failure to adjudicate part of the claim.
- e) A decision that clearly contradicts applicable laws and regulations.

These grounds are exhaustive; no other reasons are legally acceptable for submitting a PK. In addition to the grounds, the law also sets a strict time limit for submission. Article 92 stipulates that a PK must be filed no later than three (3) months from the date the Tax Court’s decision is delivered to the parties. If the PK is based on newly discovered evidence or fraud, the three-month period is calculated from the date the novum is found or the fraud is revealed under oath. This deadline is absolute; PK submissions beyond this period are generally inadmissible.

Based on this statutory framework, it can be concluded that the legal basis for the Tax Court’s rejection of PK petitions is implicitly established. Any PK submission that violates the provisions of Articles 89, 91, or 92 does not meet the requirements for further processing. For example, a second PK petition clearly contradicts Article 89(1) and must be rejected. A PK filed after the three-month deadline violates Article 92 and results in forfeiture of the right to review. Similarly, a PK submitted without valid legal grounds (i.e., not among the five listed in Article 91) fails to meet the substantive criteria for review by the Supreme Court and will ultimately be rejected.

Although the law does not explicitly state the Tax Court’s role in rejecting defective PK petitions, the existence of these provisions provides a legal foundation for the Tax Court to refuse to process PK submissions that do not meet formal requirements. Within the judicial system, it is common practice for lower courts to reject legal remedies that clearly fail to meet procedural criteria (e.g., appeals or cassation filed beyond the deadline are declared *niet ontvankelijk* or inadmissible). A similar principle applies in the context of tax judicial review: the Tax Court, as the originating court, has the duty to ensure that PK petitions comply with legal requirements before being forwarded to the Supreme Court.

#### b. Supreme Court Regulation and Implementing Rules on Judicial Review in Tax Cases

In addition to statutory law, there are more detailed implementing regulations that govern the procedures for submitting judicial review (PK) petitions against Tax Court decisions. The Supreme Court has issued Supreme Court Regulation (PERMA) No. 7 of 2018 on the Procedures for Submitting Judicial Review Petitions of Tax Court Decisions. This regulation outlines the technical procedures for filing a PK, including the obligation for petitioners to submit the PK memorandum directly to the Tax Court, the prohibition of a second PK, and other administrative aspects.

Article 3 of PERMA 7/2018 reiterates that PK petitions must be submitted through the Tax Court, may only be filed once, do not suspend the execution of the Tax Court's decision, and may be withdrawn before a ruling is issued (with the consequence that it cannot be refiled). These provisions are consistent with the Tax Court Law and reinforce the legal basis that a second PK is not permitted and therefore will not be processed.

Another important aspect regulated in PERMA 7/2018 concerns the administrative requirements and completeness of PK petition documents. Article 4 requires that the PK petition be submitted in writing (PK memorandum) by the party or their legal representative, clearly stating the grounds and attaching supporting evidence. Before submission, the petitioner must ensure that the case fee has been fully paid and that all administrative requirements are complete. This regulation provides a legal foundation for the Tax Court to conduct a preliminary check. If the petition is deemed incomplete, the documents will be returned to the petitioner for completion. This rule explicitly affirms the Tax Court's authority to reject (return) PK petitions that do not meet formal requirements. In other words, PERMA 7/2018 explicitly grants the Tax Court the right to reject incomplete PK petitions before they are forwarded to the Supreme Court. This authority does not involve adjudicating the substance of the case but rather enforcing procedural order in accordance with procedural law.

Furthermore, PERMA 7/2018 delegates the detailed regulation of document requirements to the Tax Court. Article 5(2) states that the completeness requirements for PK petitions shall be further regulated by a decision of the Chief Justice of the Tax Court. In response, the Tax Court issued Decision of the Chief Justice of the Tax Court No. KEP-01/PP/2020 on the Requirements for Judicial Review Petitions of Tax Court Decisions. This decision provides a detailed checklist of documents that must be attached by the petitioner, including:

- a) Proof of payment of the case fee (IDR 2,500,000),
- b) Two original copies of the PK memorandum,
- c) A soft copy of the PK memorandum,
- d) A copy of the Tax Court decision being challenged,
- e) A copy of the criminal court decision (if the PK is based on proven fraud),
- f) A statement of newly discovered evidence along with the novum (if applicable),
- g) A copy of the Tax Court's decision notification letter (for PKs based on unaddressed claims or manifest legal errors),
- h) Identity and legal documents of the petitioner (e.g., articles of incorporation, ID card, tax ID number, power of attorney if represented).

With these detailed rules, every PK petition submitted will be verified by Tax Court staff using a standardized checklist. If even one required component is missing, such as unpaid case fees or an absent PK memorandum the petition will be deemed incomplete and returned to the petitioner for correction. This constitutes a legally valid form of administrative rejection under the applicable regulations.

c. Supreme Court Circular and Policy on the Prohibition of Second Judicial Review (PK II)

One of the most prominent contexts in which the Tax Court rejects judicial review (PK) petitions is the rejection of a second PK (PK II). As previously mentioned, the Tax Court Law

explicitly prohibits the submission of a second PK. However, in practice, there have been instances in past years where parties attempted to submit more than one PK. In response, the Supreme Court, through chamber forums and official circulars, reinforced the prohibition.

Supreme Court Circular (SEMA) No. 2 of 2019 clearly states that a second PK petition in tax cases, as in other types of cases, is not permissible. This circular was issued as an operational guideline for courts to ensure uniform understanding that PK may only be submitted once.

Following this policy, the Tax Court took decisive action. In 2020, the Tax Court, through its Clerk's Office, issued Announcement No. 86/PAN/2020, stating that it would no longer accept second PK petitions for submission to the Supreme Court as of 21 February 2020. In other words, if a taxpayer or tax authority (e.g., Directorate General of Taxes or Customs) attempts to file a second PK for a dispute that has already been subject to a PK, the petition will not be processed by the Tax Court. The official announcement cites Article 89(1) of the Tax Court Law and SEMA No. 2 of 2019 as the legal basis for rejection.

This measure clarifies that the Tax Court is obligated to reject the registration of PK petitions that are legally impermissible. Such rejection does not constitute adjudication of the case's substance but rather ensures compliance with legal limitations, a form of law filtering. With the issuance of SEMA and the Supreme Court's directive, there is no longer any ambiguity regarding the Tax Court's authority to reject second PK petitions since 2020.

From the legal framework outlined above, it is evident that the Tax Court's authority to reject PK petitions is supported by a robust juridical foundation. The law imposes clear limitations (single submission, strict deadlines, limited grounds); Supreme Court regulations and internal Tax Court decisions govern procedural requirements and document completeness through a return mechanism; and the Supreme Court Circular reinforces the prohibition of second PKs. Collectively, these instruments point to a single principle: only PK petitions that meet formal and substantive requirements are eligible to be forwarded to the Supreme Court. Conversely, defective or non-compliant PK petitions are subject to rejection by the Tax Court to ensure procedural order and judicial integrity.

### **The Authority of the Tax Court to Reject Judicial Review Petitions**

The Tax Court, as a specialized judicial body in the field of taxation, operates within the scope of judicial power but possesses distinct characteristics. Its primary authority lies in adjudicating tax disputes at the appellate level and in tax collection lawsuits, with its decisions being final and binding. However, the availability of judicial review (PK) to the Supreme Court positions the Tax Court as a "connecting court" between tax justice seekers and the Supreme Court.

The Tax Court's authority in the context of PK is administrative-judicial in nature, meaning it pertains to case administration governed by procedural law. The following is an analysis of the scope of this authority:

#### **a. Administrative Duties and Authority to Screen Judicial Review Petitions**

Based on the regulations previously outlined, the Tax Court is mandated to screen the formal aspects of judicial review (PK) petitions. This authority includes accepting or rejecting PK petition files at the time of registration with the court clerk. In practice, the term "reject" here means that the court does not issue a Certificate of PK Petition and returns the file to the petitioner if the requirements are incomplete. Decision No. KEP-01/PP/2020 stipulates that the Certificate of PK Petition may only be signed by court staff if all documents are complete and in accordance with the checklist. Therefore, the Tax Court is legally authorized to withhold issuance of the certificate (effectively rejecting the registration of the PK) if the checklist is not fulfilled. This action is legally valid, based on Article 5 of Supreme Court Regulation (PERMA)

No. 7 of 2018 in conjunction with KEP-01/2020. As a result, the PK petition is not considered officially submitted until the deficiencies are corrected by the petitioner.

This authority is crucial to prevent premature or defective files from being forwarded to the Supreme Court. Additionally, in cases where the deadline has passed, Tax Court staff are also authorized to reject the petition. For example, if a petitioner attempts to register a PK after the three-month deadline has expired, the clerk may refuse to accept the file because the right to file a PK has lapsed under Article 92 of the Tax Court Law. Analogous practices are observed in other courts, where appeals or cassation petitions submitted after the deadline are either not accepted by the clerk or later declared *niet ontvankelijk* (inadmissible) by the higher court. The Tax Court appears to adopt a similar *ex officio* practice for efficiency, ensuring that clearly late submissions are not processed further.

b. Limits of Authority: The Tax Court Does Not Assess Substantive Grounds

It is important to note that the Tax Court does not have the authority to assess or decide on the merits (substance) of a PK petition—this authority lies entirely with the Supreme Court as the *judex extraordinary*. The Tax Court's role is limited to administrative verification and transmission of the case file. If all formal requirements are met, the Tax Court is obligated to forward the PK petition to the Supreme Court without evaluating the strength or weakness of the grounds presented.

Even if the Tax Court judges believe that the grounds for PK are unconvincing or resemble previously rejected claims, it is not within their jurisdiction to assess this at the submission stage. Rejection by the Tax Court must not be based on substantive evaluation (e.g., rejecting a petition because the claimed *novum* is deemed insufficient). Instead, the decision to reject a PK on substantive grounds is the prerogative of the Supreme Court. The Supreme Court may reject a PK petition if it finds the grounds “unfounded” or unproven, thereby affirming the Tax Court's decision.<sup>2</sup> Therefore, the Tax Court's authority in this context is strictly limited to procedural gatekeeping. This limitation aligns with the judicial hierarchy: the Tax Court must not obstruct access to PK based on subjective views of the dispute's substance, as long as the formal requirements are satisfied.

c. Implications of Authority for the Parties

For both taxpayers and tax authorities (e.g., Directorate General of Taxes or Customs), understanding the Tax Court's authority is crucial. They must recognize that completeness and timeliness are key to having their PK petition processed. Statistics show that the majority of tax-related PK petitions are ultimately rejected by the Supreme Court, in 2022, approximately 89.96% of PK decisions resulted in rejection, thereby upholding the Tax Court's ruling. This high rejection rate reflects the difficulty of obtaining PK approval, as it is reserved for extraordinary errors.

From the Tax Court's perspective, the authority to reject defective PK petitions helps filter cases before they reach the Supreme Court. This aligns with the legislative intent to limit the levels of tax litigation—ensuring that tax disputes are resolved more efficiently and not every case escalates to cassation. By rejecting unqualified PK petitions early, the Tax Court contributes to judicial efficiency: the Supreme Court is spared from reviewing clearly non-compliant files, and parties avoid prolonged and futile legal processes.

d. Institutional Relationship Between the Tax Court and the Supreme Court

The Tax Court's authority in the context of judicial review (PK) must also be understood within the framework of institutional relations. Although the Tax Court was previously under the administrative supervision of the Ministry of Finance, Constitutional Court Decision No. 9/2019 mandated that the Tax Court be removed from executive oversight and placed under

the Supreme Court to ensure judicial independence . This confirms that the Tax Court is part of the judicial power system, and its actions in the PK process are integral to the broader judicial procedure.

When the Tax Court rejects a PK petition that does not meet the requirements, it is exercising a judicial function—albeit administrative in nature—that supports the Supreme Court. The Supreme Court, through its regulations (PERMA) and circulars (SEMA), has provided clear guidance for the Tax Court to act decisively in such matters. Thus, institutionally, there is alignment of authority: the Tax Court performs a filtering role, while the Supreme Court conducts the final substantive review. There is no overlap in authority, as each operates within a distinct scope. In fact, there is synergy: without the Tax Court’s filtering function, the Supreme Court could be overwhelmed by thousands of PK files that may be incomplete or lack valid legal grounds—despite being required to decide each PK within six months.

Therefore, the Tax Court’s authority to screen PK petitions is not merely a right, but an institutional obligation within the framework of sound judicial governance.

#### e. Brief Implementation Study

Since the issuance of Clerk’s Announcement No. 86/PAN/2020, the Tax Court has no longer processed second PK petitions (PK II). This demonstrates consistent implementation of its authority to reject impermissible PKs. Parties attempting to submit a second PK are informed that such legal remedy is unavailable.

In daily practice, Tax Court clerks verify PK petition documents using the checklist established in KEP-01/2020. For example, if a petitioner fails to attach a copy of the Tax Court decision or proof of payment, the clerk will not accept the registration until the documents are complete. Moving forward, as this procedure becomes more widely known, through outreach by tax authorities and legal counsel, it is expected that the number of rejected PK petitions due to incomplete documentation will decrease, as petitioners will be aware of the requirements from the outset.

The Tax Court’s authority in this regard is both preventive and corrective: preventive by informing petitioners of the requirements in advance, and corrective by returning incomplete files for revision.

## CONCLUSION

Based on the above analysis, it can be concluded that the Tax Court holds juridical authority to reject judicial review (*PK*) petitions that do not meet legal requirements. The legal basis for this authority is embedded in various legal instruments, including Law No. 14 of 2002 on the Tax Court, which limits *PK* to a single submission within a specific timeframe; Supreme Court Regulation (PERMA) No. 7 of 2018 in conjunction with KEP-01/PP/2020, which governs the procedures and administrative completeness of *PK* petitions; and Supreme Court Circular (SEMA) No. 2 of 2019, which reinforces the prohibition of second *PK* submissions. The rejection of *PK* petitions by the Tax Court is fundamentally aimed at upholding procedural law in tax litigation and ensuring compliance with established rules. The Tax Court does not assume the role of the Supreme Court in assessing the substance of disputes; rather, it performs a filtering function to ensure that only formally valid *PK* petitions are forwarded to the Supreme Court. This limited authority to reject or return defective *PK* petitions contributes significantly to judicial efficiency. It prevents the Supreme Court from expending resources on petitions that are clearly non-compliant from the outset. For justice seekers, these rules encourage greater diligence and precision in submitting *PK* petitions in accordance with the law, complete and timely. Overall, the Tax Court’s limited authority to reject *PK* petitions

reflects the principle of simple, swift, and low-cost justice, without compromising the substantive rights of the parties.

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