



Analysis of Tax Court Decisions Over the Deemed Interest Revenue Dispute From Intragroup Interest-Free Loans

Dian Tri Handayani^{1*}, Lith Alfansuri², Sekar Mayangsari³

¹Universitas Trisakti, Jakarta, Indonesia, dian.handayani@gmail.com

²Universitas Trisakti, Jakarta, Indonesia, lithalfansuri1234@gmail.com

³Universitas Trisakti, Jakarta, Indonesia, sekar_mayangsari@trisakti.ac.id

*Corresponding Author: dian.handayani@gmail.com

Abstract: This research aims to explore tax disputes related to Deemed Interest Revenue of interest-free intra-group loans; an issue that has persisted over time due to regulatory inconsistencies. In 2023, tax revenue contributed significantly to Indonesia's state income, with 67% of total revenue sourced from taxes. Despite the positive growth in tax collection, the self-assessment system in Indonesia creates opportunities for non-compliance, leading to tax audits by the Directorate General of Taxes (DJP) to ensure legal adherence. However, tax audits often result in disputes between taxpayers and the DJP, particularly over the interpretation of tax regulations. One recurrent dispute involves the tax treatment of interest-free loans, which lacks clear regulatory guidance. Previous studies show a high rate of DJP losses in court over these cases, raising concerns about the effectiveness of the current legal framework. This research will analyze court rulings, comparing the DJP's and taxpayers' perspectives on Deemed Interest Revenue of interest-free loans to identify factors that contribute to DJP's success or failure in tax disputes. The findings aim to provide recommendations to improve DJP's strategies in court, reduce the number of disputes, and enhance tax compliance.

Keywords: Deemed Interest Revenue, Interest-Free Loan; Related Parties; Tax Court Decision; Tax Dispute.

INTRODUCTION

To minimize the inherent risks of the self-assessment tax system in Indonesia, as well as in order to carry out law enforcement, the Directorate General of Taxes is given the authority to carry out tax audits as a supervisory instrument as well as an appropriate and systematic law enforcement instrument so that trust is given to Taxpayers. not misused by Taxpayers. The final result of a tax audit is the issuance of a legal audit product in the form of a tax assessment letter (SKP).

However, the results of tax audits often cause dissatisfaction on the part of the Taxpayer, which ultimately results in tax disputes arising between the Taxpayer and the Fiscus. Tax disputes are disputes that arise in the field of taxation between taxpayers or tax bearers and authorized officials as a result of the issuance of decisions that can be appealed or sued to the

tax court based on tax laws and regulations, including lawsuits to the tax court based on the tax collection law forced letter. The follow-up to the tax dispute is the legal action taken by the Taxpayer through an objection submitted to the Regional Office of the Directorate General of Taxes (Kanwil DJP), which can then be continued through an appeal or lawsuit to the Tax Court, until the final legal effort is carried out, namely Review. Return (PK) to the Supreme Court.

Of the many tax disputes that occur, one tax dispute that is interesting because it is one of the recurring disputes from year to year is related to the dispute over the correction of Interest-Free Loans from IntraGrup Companies.

Previous research suggests that interest on loans from affiliates who have sufficient cash can be used as a deduction from taxable income as long as the amount of the interest expense is reasonable and there is no indication of tax avoidance (Santoso, 2022).

Other research revealed that from 1992 to 2015 there had been approximately 33 decisions regarding interest-free loan transactions with 76% of DJPs experiencing losses (Rahayuningtyas and Andriani, 2015). Other research focuses on the contradiction between interest-free loan rules and other tax rules. This is the gap that we want to study through this research. With an appeal win rate at the Tax Court of only 24%, the provisions relating to interest-free loan transactions as regulated in S-165/PJ.312/1992 in conjunction with Article 12 PP 94 of 2010, are still maintained, and to date there are no regulations that revoke or update the rules at the same level.

However, there has been no research that comprehensively analyzes the content of interest-free loan correction disputes according to the DJP versus according to the Taxpayer as well as the justifications of each party when submitting the appeal process and what the views/assessments of the Panel of Judges are in deciding the dispute case. What things will strengthen DJP's argument so that DJP can win and what things will actually weaken DJP's position so that DJP experiences defeat during the appeal process.

This research aims to describe the tax rules and regulations that still apply regarding interest-free loans, analyze the causes of tax disputes related to interest-free loans, especially those that result in the imposition of Deemed Interest Revenue, then try to identify the disputes and arguments of each party in dispute as well as the arguments of the Panel of Judges so that The final results can provide recommendations for forms of correction and interest-free loan practices to avoid tax disputes.

This research will attempt to identify tax disputes related to the imposition of Deemed Interest Revenue on Interest-Free Loan transactions with a focus on understanding tax practices and strategies used by the Fiskus and Taxpayers in handling disputes through content analysis of Tax Court decisions (published during 2020 to 2023) by comparing the opinions of the DJP and Taxpayers as parties to the dispute as well as the opinions of the Panel of Judges who decide tax dispute cases.

METHOD

This research is qualitative research that produces descriptive data from primary data sources, namely research data obtained directly from the original source, and secondary data obtained indirectly through intermediary media (Murdiyanto, 2020).

Creswell (2014) describes qualitative research as an approach used to carry out an in-depth understanding of the interpretation of social or cultural phenomena which constitute the experience of human life, which aims to explore the meaning related to the event or phenomenon being studied.

Ultimately, this research is intended to be able to provide recommendations for more comprehensive solutions for the Fiscus (especially for the DJP Tax Audit Functional Team and the DJP Objection Review Team).

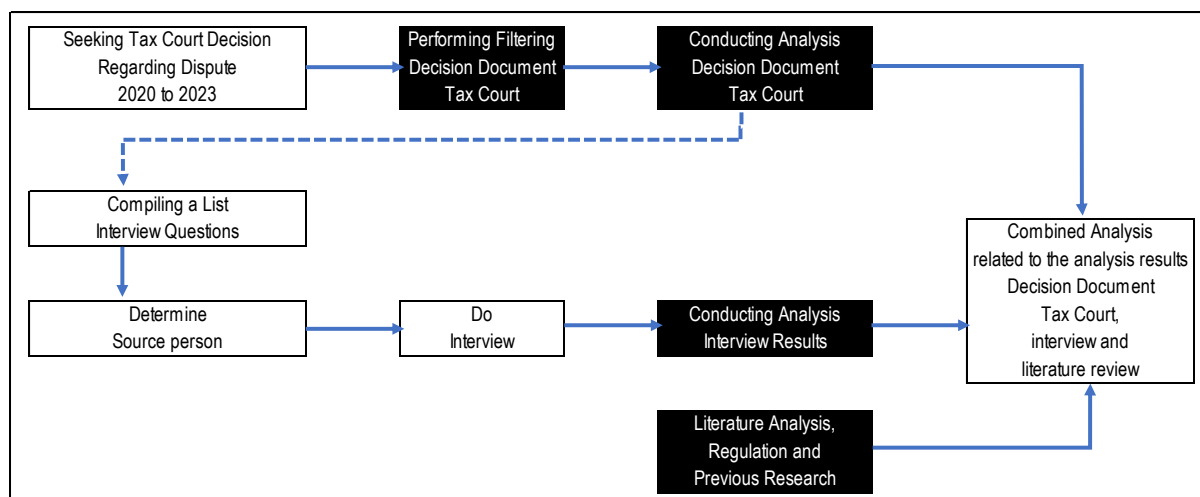


Figure 3. Research Design

The data used in the literature review is in the form of tax regulations that apply in Indonesia (especially regarding interest-free loans) and other literature. Regulatory data related to tax aspects of Deemed Interest Revenue for interest-free loan transactions is obtained online either on the internet via the JDIH State Secretariat website, the Ministry of Finance website, the Directorate General of Taxes website, and others. Other literature data in the form of journals, books and articles, both in print and electronic form, obtained through online visits with reference addresses included.

Meanwhile, data on tax court decisions was collected through documentation methods by accessing archives of tax court decisions regarding interest-free loans from 2020 to 2023 obtained through the website and archives at the Tax Court Secretariat which are available online and searching using the keywords "interest-free loans" and "PP 94 of 2010".

Based on the keywords above, the author obtained 214 court decisions, which were then categorized based on type of tax, reasons for dispute, decision results, and legal considerations. In this research, the author only uses data on tax decisions which are disputes regarding the Corporate Income Tax type, namely 36 tax court decisions to obtain a picture of the dispute in the form of the arguments of each party to the dispute as well as the opinion of the Panel of Judges. Analysis of the arguments from the DJP and Taxpayers is used to answer the problem formulation regarding the type of dispute and the causes of its occurrence. Meanwhile, analysis of the opinion of the Panel of Judges is used to answer problem formulations regarding solutions and recommendations to reduce recurring disputes.

Of the 36 tax court decisions, the author then categorized the content of the disputes from the tax court decisions, whether they were disputes related to the imposition of interest income (deemed interest revenue) or related to the imposition of interest charges on interest-free loan transactions, until we obtained 22 tax court decisions regarding interest-free loan transactions. interest – imposition of deemed interest revenue.

To complete the research, interviews were conducted to obtain confirmation of the results of content and document analysis, capturing the perceptions and views of resource persons. Resource persons have the capacity of knowledge, ability and experience regarding interest-free loan disputes which consist of:

1. Objection Reviewers (PK) of the Directorate General of Taxes, who on average have work experience of more than 20 years and have served as PK for more than 10 years.
2. Functional Tax Inspector (FPP) of the Directorate General of Taxes, who on average have work experience of more than 15 years and have served as FPP for more than 8 years.

3. Taxpayer Representative or Taxpayer's attorney who has tax experience ranging from 7 years to 30 years.

Based on the data collected, the data was then organized and analyzed, namely analysis of court decision documents, analysis of interview results and analysis of literature, regulations and previous research. The content analysis method is used in analyzing court decision documents in order to identify main points and disputes as well as patterns in tax court decisions.

As mentioned above, content analysis will only focus on disputes related to the imposition of deemed interest revenue that arise as a result of interest-free loan transactions with intragroup parties. Meanwhile, disputes over the imposition of interest charges, which also often arise in disputes over interest-free loan transactions with intragroup parties, are not included in the scope of the research.

Descriptive statistical analysis is also used to describe the frequency and distribution of court decision results. The findings of this research will be presented in the form of tables, graphs and narratives that explain the results of the analysis comprehensively.

| No. | Research Questions | Data yang Digunakan | Narasumber |
|-----|---|---|---|
| 1. | What is the cause of the Corporate Income Tax dispute related to Deemed Interest Revenue on interest-free loan transactions? | <ul style="list-style-type: none"> - Opinions and arguments from the Directorate General of Taxes in the tax court decision - Opinions and arguments from the Taxpayer in the Tax Court Decision - Interview Results | <ul style="list-style-type: none"> - Taxpayer (PK & FPP) - Taxpayer Representative / Attorney |
| 2. | What are the rules and regulations used in resolving corporate income tax disputes related to Deemed Interest Revenue on interest-free loan transactions? | <ul style="list-style-type: none"> - Opinions and arguments from the Directorate General of Taxes in the tax court decision - Opinions and arguments from the Taxpayer in the Tax Court Decision - Considerations and opinions of the Panel of Judges in the tax court decision - Interview Results | <ul style="list-style-type: none"> - Taxpayer (PK & FPP) - Taxpayer Representative / Attorney |
| 3. | What solutions should the DGT implement to reduce recurring disputes - interest-free loans, so that it can ultimately increase the DGT's win rate? | <ul style="list-style-type: none"> - Considerations and opinions of the Panel of Judges in the tax court decision - Interview Results | <ul style="list-style-type: none"> - Taxpayer (PK & FPP) - Taxpayer Representative / Attorney |

RESULTS AND DISCUSSION

Descriptive Statistical Analysis of Tax Court Decisions

Based on data collection on tax court decisions made during 2020 to 2023, the author obtained 214 court decisions containing the keywords "interest-free loan" and/or "PP 94 of 2010", then selected and eliminated them to obtain 36 decisions. tax court regarding corporate income tax tax disputes related to interest-free loan disputes between intragroups used in this research.

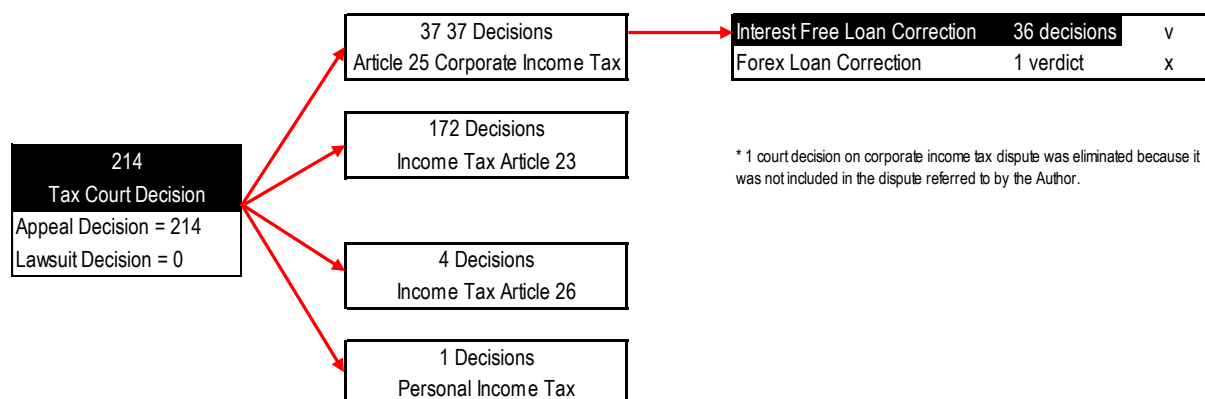


Figure 4. Selection and Elimination of Tax Court Decisions
(Source: processed by the Author, 2025)

During the period 2020 to 2023, the number of decisions regarding interest-free loans can be said to be stable, as shown in the graph below. In 2020-2021, fewer decisions were produced, allegedly due to large-scale social restrictions due to Covid-19, where there were changes in the settlement period, especially at the start of the pandemic.

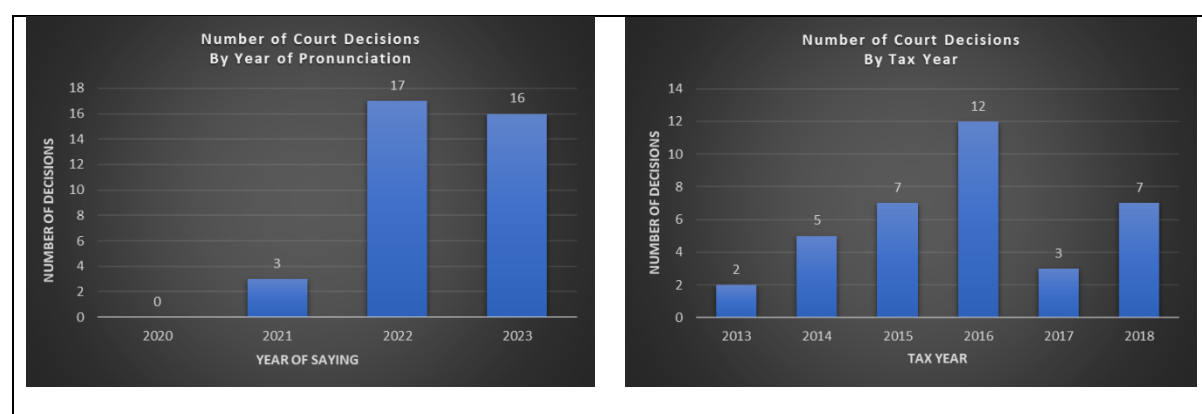


Figure 5. Tax Court Decision Statistics
(Source: processed by the Author, 2025)

Of the 36 court decisions, it is known that there are 14 'Maintained' decisions, 21 'Not Maintained' decisions and 1 'Partially Retained' decision, DJP still experiences losses more often than wins. By not taking into account the 'Partially Maintained' ruling, the DJP's current win rate is 40.00%. This figure shows an increase when compared to the 33 decisions produced during the period 1992 to 2014, where the DJP experienced losses of 76% (Rahayuningtias and Andriani, 2015).

Of the 36 court decisions related to corporate income tax disputes on interest-free loan transactions, the author carried out further selection and elimination, namely by focusing on disputes related to the imposition of Deemed Interest Revenue, namely corrections related to interest income that should be recorded by taxpayers, on loans given to companies. intragroup, with the result that there were 22 Tax Court decisions regarding the imposition of Deemed Interest Revenue with details of the decisions as follows:

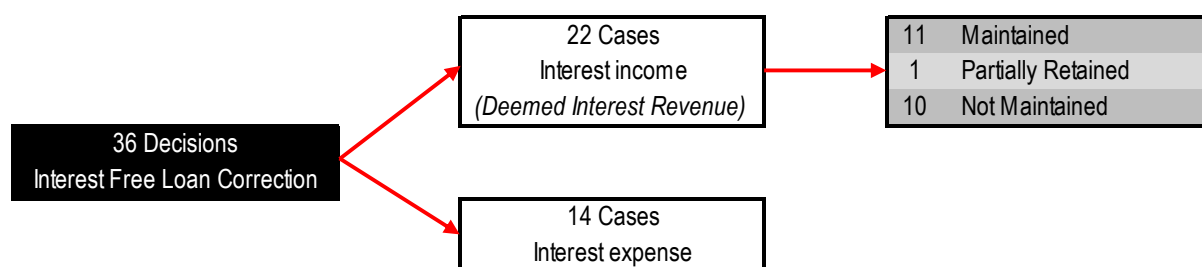


Figure 6. Tax Court Decision regarding Deemed Interest Revenue
(Source: processed by the Author, 2025)

Content Analysis

Table 1
Number of Decisions by Type & Cause of Dispute

| Types & Causes of Disputes | Legal basis | Number of Decisions by Tax Year | | | | | | Total | Winning Level |
|--|-----------------------------------|---------------------------------|----------|----------|----------|----------|----------|-----------|---------------|
| | | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | | |
| Formal Dispute | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Material Disputes: | | | | | | | | | |
| 1. Loans are recorded as advances on capital deposits | Pasal 18 (3) UU PPh | 2 | 1 | 1 | 1 | 0 | 0 | 5 | 100% |
| 2. Loans do not come from shareholders' funds | PP 94/2010 - Pasal 12 (1) huruf a | | | | 3 | | 1 | 4 | 50% |
| 3. The loan is given by the shareholder, but the capital that should be paid in by the shareholder providing the loan has not been paid in full. | PP 94/2010 - Pasal 12 (1) huruf b | | 2 | | | | | 2 | 0% |
| 4. Loans are provided by shareholders who are at a loss | PP 94/2010 - Pasal 12 (1) huruf c | | | | 1 | 1 | | 2 | 100% |
| 5. Loans are given to related parties who are not experiencing financial difficulties for the continuity of their business. | PP 94/2010 - Pasal 12 (1) huruf d | | | | 1 | | 1 | 2 | 100% |
| 6. Other | Pasal 18 (3) UU PPh | | | 2 | 2 | 1 | 2 | 7 | 14,29% |
| Amount | | 2 | 3 | 3 | 8 | 2 | 4 | 22 | 54,55% |

*For disputes arising from more than 1 cause, the Author categorizes them as the most major cause of the dispute.

Source: processed by the author, 2025

Some of the causes of disputes as shown in Table 1 above are as follows:

1. Loans are recorded as advances for capital deposits or can be converted as capital.

There are funds/money out from the Taxpayer (Appellant) to the related party, which are then recorded as advances for capital deposits or additional capital deposits. In this dispute, DJP won (5 out of 5 decision cases). The Panel of Judges defended the DJP's correction with the argument:

- There is no share conversion for the advance payment of capital that has been paid in.
- It cannot be guaranteed when the advance capital deposit will become capital accompanied by a deed of change in company capital.

Legal basis: Article 18 paragraph (3) of the Income Tax Law.

2. Loans do not come from shareholder funds.

There was an outflow of money to the related party, but it was later discovered that the money flow came from another party.

In this dispute, DJP experienced partial wins/defences (2 out of 4 decision cases), and lost (2 out of 4 decision cases). The results of the Panel of Judges' decision regarding the causes of this dispute are greatly influenced by the strength/weakness of the evidence from each party during the trial process, especially regarding proof of the flow of money in and money out, whether it is true that the loan given came from Taxpayer funds, or whether it came from another party. other.

Legal basis: Article 12 paragraph (1) letter a PP 94 of 2010.

3. Loans are provided by shareholders, but the capital that should be paid in by the lending shareholder has not been paid in full.

The dispute began with the balance of shareholders' receivables (which is a recording of shareholders' capital contributions that have not been fully paid in), even though legally through the deed of establishment - it is stated that the shareholders have paid in full the entire share capital.

In this dispute, DJP lost (2 out of 2 decision cases). The Panel of Judges argued that there was no inflow of funds from the recording of the shareholder's receivables, and that the balance was truly a shortfall in paid-in capital.

Legal basis: Article 12 paragraph (1) letter b PP 94 of 2010.

4. Loans are provided by shareholders who are at a loss.

In this dispute, the DJP won (2 out of 2 decision cases), which was strengthened by the Panel of Judges' argument that the Taxpayer was proven to be at a loss, so he did not have enough funds to lend to related parties.

Legal basis: Article 12 paragraph (1) letter c PP 94 of 2010.

5. Loans are given to related parties who are not experiencing financial difficulties for the continuity of their business.

In this dispute, the DJP won (2 out of 2 decision cases), which was confirmed by the Panel of Judges' argument that the related party that was given the loan was proven not to be at a loss.

Legal basis: Article 12 paragraph (1) letter d PP 94 of 2010.

6. Recording of Other Receivables from related parties.

There is a balance of other receivables from related parties which are debit notes or bills for operational activities between groups.

In this dispute, DJP experienced more defeats (2 out of 3 decision cases) due to:

- Taxpayers can prove that the receivable balance recorded is an operational transaction (whether trade or non-trade), and is not a lending and borrowing transaction.
- Taxpayers argue that the provisions in Article 12 paragraph (1) PP 94 of 2010 apply to transactions between shareholders and subsidiaries, not with other related parties.

7. Other

In the cause of this dispute, DJP experienced defeat (4 out of 4 decision cases) due to:

- a. The Taxpayer can prove that the related party to the transaction counterparty did not record interest expense (as opposed to the imposition of deemed interest revenue which according to the DJP should be recorded by the Taxpayer), and in this case the DJP did not make a correlative adjustment to the related party transaction counterparty.
- b. The Panel of Judges is of the opinion that if there is no correlative adjustment carried out by the DJP, it will cause multiple corrections and the potential for double taxation.
- c. The DJP cannot show evidence of tax avoidance efforts resulting from the policy of the Taxpayer's affiliated group by not charging interest on its affiliated receivables (as intended in Article 18 paragraph (3) of the Income Tax Law and its Explanations).

Legal basis: Article 18 paragraph (3) of the Income Tax Law, PER-32/PJ/2011 Article 2 paragraph (1) and Article 2 paragraph (2).

The use of the legal basis of Article 18 paragraph (3) of the Income Tax Law and its Explanation is intended for companies that have special relationships or affiliated relationships that have risks and indications of tax avoidance that can harm the interests of the state (in tax obligations), and aims to prevent and detect Tax avoidance efforts in business entities within a single control or control environment or known as companies that have special relationships or affiliated relationships.

As long as there is no risk and no indication of tax avoidance at the expense of state interests (in tax obligations), it is possible for business practices in a special relationship to occur that do not fully comply with the rules of fairness and customary business practices between parties who do not have a special relationship (independent). , where this is common and commonly occurs in the practice of the business world, while still paying attention to the principles of justice in fulfilling obligations and imposing taxes.

From the existing Court Decisions, no disputes were found regarding the rates/interest rates used in calculating deemed interest revenue by the DJP. Which means that the interest rate used by the DJP in the dispute is correct. In several decisions, the interest rates used include the Bank Indonesia interest rate, LIBOR, or the Loan Guarantee (LPS) interest rate, all of which can be accepted by the Panel of Judges at trial.

Interview

Based on the author's interviews with Objection Reviewers, Functional Tax Inspectors and Taxpayer Attorneys to obtain confirmation of the causes of Deemed Interest Revenue disputes, the resource person stated that the majority of interest-free loan disputes regarding the imposition of Deemed Interest Revenue originate from the application of Article 12 paragraph (1) PP 94 of 2010. The terms and conditions in Article 12 paragraph (1) PP 94 of 2010 must be fulfilled accumulatively, and if one of the conditions is not fulfilled then the interest-free loan interest payable which is calculated by setting a reasonable interest rate in accordance with the Arms' Length Principle.

In several cases of interest-free loans - deemed interest revenue, it was found that there were the same causes of dispute, using the same legal basis, but resulting in different Judges' Decisions. According to the resource person, proving that all the requirements in Article 12 paragraph (1) PP 94 of 2010 have been fulfilled is very important; both in the audit process, the objection process and the appeal process at the Tax Court, and is the main key in increasing the DJP's win rate in the appeal process at the Tax Court.

Analysis of Solutions to Resolve Recurring Disputes and Increase DGT's Win Rate

The intragroup interest-free loan dispute began with a lending and borrowing transaction between companies that had a special relationship (related party). The legal basis that is often and widely used in handling this dispute is to use Article 12 paragraph (1) PP 94 of 2010. However, there is a weakness in this provision, where the provision does not clearly state that the interest-free loan transaction in question, includes it includes transactions with other related parties, and not just transactions between shareholders and subsidiaries.

In several decisions, the Panel of Judges stated that the provisions of Article 12 paragraph (1) PP 94 of 2010 are intended to strengthen and complement the provisions of the Anti-Tax Avoidance Protocol in accordance with Article 18 paragraph (3) of the Income Tax Law and its Explanation, to prevent and detect efforts to avoid tax within the company. business in an environment of one control or control or known as a company that has a special relationship or affiliate relationship.

Whereas according to the Panel of Judges, the a quo provisions are a further elaboration of the provisions of Article 18 paragraph (3) and Paragraph (4) of the Income Tax Law, and these provisions regulate transactions carried out in a special relationship or transactions that are not independent, where the transaction These must be treated or equated with transactions with independent (free) parties so that a fair value is obtained which has general effect.

Thus, these provisions do not just regulate the provision of interest-free loans from shareholders to their subsidiaries (as stated in Article 12 paragraph (1) PP 94 of 2010), but can also be interpreted as regulations governing the provision of interest-free loans to parties who have a special relationship. The opinion of the Panel of Judges is that it would be good to legalize it as a form of regulation/provision that can strengthen the position of Article 12 paragraph (1) PP 94 of 2010 as the legal basis used in resolving interest-free loan disputes. On the other hand, the DJP must be able to provide clear, complete and accurate proof of inter-company lending and borrowing transactions, especially regarding interest-free loans, starting from strengthening proof that this loan transaction is a transaction with a related party.

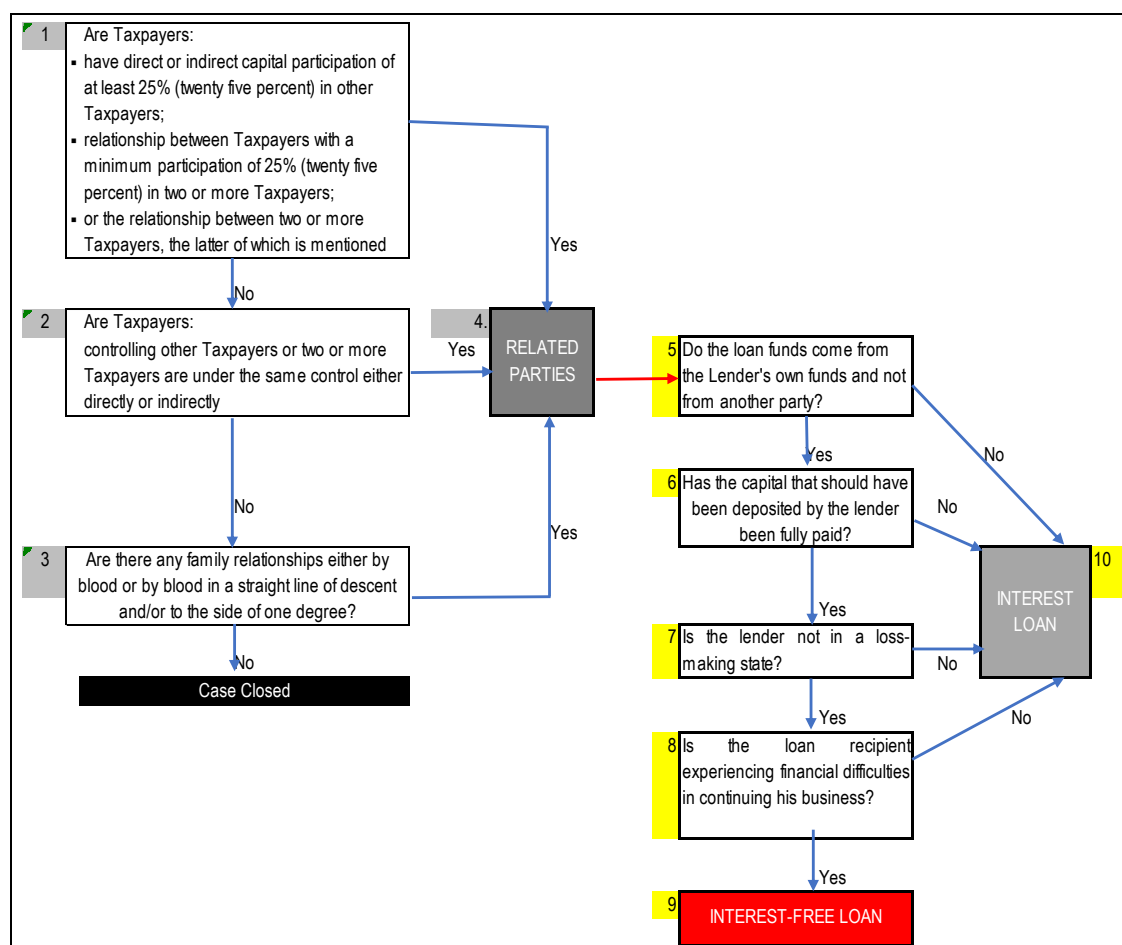


Figure 7. How to Determine the Categorization of Interest-Free Loan Transactions

Source: processed by the author, 2025

CONCLUSION

From the analysis above, it can be seen that each dispute has a unique case and different legal basis and can produce different and varied decisions which are influenced by the availability of evidence submitted by each party to the dispute in the trial.

Overall, the analysis of the court decision regarding the interest-free loan dispute - the imposition of deemed interest revenue shows that the DJP's level of victory in the trial will depend greatly on the straightforwardness and firmness of the underlying regulations as well

as the strength of the evidence submitted during the trial process. Tax regulations, especially those relating to transactions between affiliated companies, still have several gray areas that can be interpreted differently by both Taxpayers and DJP, and even by the Panel of Judges.

Therefore, efforts are needed to improve the tax supervision and regulation system in order to reduce gaps that allow disputes to occur. Apart from that, the DGT also needs to strengthen its evidentiary strategy in court by ensuring that all tax corrections made have a strong legal basis and can be accounted for. On the other hand, taxpayers must be more transparent in recording transactions with related parties and ensure that the recording is in accordance with applicable tax regulations so as not to create the risk of disputes in the future.

Previous research related to interest-free loans used a timeline for the research period 1992 - 2015. Meanwhile, this research uses a timeline for the research period 2020 - 2023. The tax court decision used as analysis follows this timeline period. Apart from that, this research only focuses on corporate income tax tax disputes, and does not analyze disputes on other types of taxes. Furthermore, this research also only focuses on interest income disputes that should be recognized/recorded by taxpayers (deemed interest revenue). Thus, there is still a gap in the timeline for the research period, namely 2015 - 2020. To be able to analyze interest-free loan transaction disputes, it is recommended to carry out further research with a more comprehensive and in-depth research period for disputes over all types of taxes and include interest expense disputes in scope of research.

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