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## **Tai Ji Men case: A disappointing decision of the Taichung High Administrative Court**

by Gau Ding-Yi



*Gau Ding-Yi interviewed outside the Taichung High Administrative Court after the verdict was announced on August 2, 2024.*

***About Article 28 of Taiwan's Tax Collection Act amended in 2021 to make it less favorable to taxpayers but the August 2, 2024 Taichung High Administrative Court applied the amendment retroactively to unjustly hit Tai Ji Men.***

Bitter Winter (26.08.2024) - The Taichung High Administrative Court verdict of August 2, 2024, is the latest chapter in the case in which Taiwan's National Taxation Bureau (NTB) of the Central Area erroneously imposed against Tai Ji Men a tax bill for the year 1992. Tai Ji Men had asked for a tax refund in accordance with Article 28 of the Tax Collection Act, but its demand was rejected.

We all know that in the Tai Ji Men case [Prosecutor Hou Kuan-Jen](#) violated the law and abused his power, and then he forged false evidence and fake tax bills. He also asked the NTB to cooperate with the investigation to issue wrong tax bills. The NTB of the Central Area issued a total of five tax bills for the years 1991, 1992, 1993, 1994, and 1995 (a tax bill for 1996 was issued by a different branch of the NTB). The Supreme Administrative Court in 2006 made a wrong decision about the 1992 tax bill, before the

criminal case was decided by the Supreme Court in 2007 by clarifying that Tai Ji Men had never been guilty of tax evasion, and before the facts were determined.

For the years other than 1992, Tai Ji Men won the cases all the way or went back and forth several times. Finally, in the Supreme Administrative Court's Judgment No. 422 in 2018, it was clearly determined that Tai Ji Men is a menpai of Qigong, martial arts, and self-cultivation, not a "cram school" to which pupils pay tuition fees, as the NTB had argued to impose its tax bills. The case was thus sent back to Taichung High Administrative Court and was judged by Judge Lin Jing-Wen.

When Judge Lin Jing-Wen was in court, she clearly told the NTB that she must be bound by the opinions of the judges of the Supreme Administrative Court. It was impossible for her to reconstruct facts in a way that would go against the essential findings of the Supreme Court's Judgment No. 422 in 2018, she said. The NTB knew the judge's position, so after they went back to discuss it, they were finally willing to admit that Tai Ji Men was not a cram school. They examined other menpai of qigong, martial arts, and self-cultivation like Tai Ji Men to ascertain whether there were any similar situations or tax issues. It turned out that there was no tax issue at all, so they agreed to correct the tax bills for the years other than 1992 to zero.

For the year 1992, however, the NTB maintained that the 2006 decision was final, and no different disposition was possible.

In the case decided on August 2, Tai Ji Men relied on Article 28 of the Tax Collection Act. What is this article all about? It states that when a tax agency makes a mistake in applying the law or in determining facts, it must refund the overpaid taxes at the request of the taxpayers.

In fact, this article has been revised several times. Before the article was revised in 2021, there was no time limit for the taxpayers' right to claim tax refunds due to government errors. In 2021, the Ministry of Finance took advantage of the numerical majority of the ruling party's legislators, and forcibly pushed through an amendment to Article 28 of the Tax Collection Act, shortening the taxpayers' right to claim a refund to 15 years. And then they added an unprecedented and unconstitutional clause. That is, after the tax cases have been judged and determined by a court, taxpayers can no longer invoke Article 28 of the Tax Collection Act to request a tax refund.

This is very unreasonable. Why? In the provisions of our country's Administrative Litigation Act, there is a 5-year limit on retrials. That is to say, if new facts and new evidence are discovered after the judgment is finalized, you will have no way to request the court for a retrial after five years have passed. However, this restriction only exists in administrative litigation. There is no such restriction in criminal matters.

If we take the Tai Ji Men case as an example, it has lasted for more than twenty years, and tax bills were also issued more than fifteen years ago. A lot of evidence has emerged later. The NTB itself has admitted that Tai Ji Men is not a cram school, at least it was not so in years other than 1992, but such new facts and new evidence cannot reopen this administrative lawsuit due to the five-year limitation for retrial. However, Article 28 of the Tax Collection Act did not have such a restriction prior to the amendment.

When the NTB first rejected Tai Ji Men's request for a reconsideration of the case, item 3 of the amendment to Article 28 of the Tax Collection Act had not yet been added. So, the limitation introduced by the amendment, which we regard as unreasonable, was at any rate not yet in force.

Let us come back to the August 2, 2024, decision. It is a pity that the court obviously used the most restrictive interpretation and stated that in cases that had been

determined by court decisions even before the 2021 amendment, taxpayers cannot invoke Article 28 of the Tax Collection Act to ask for a refund. I believe this has clearly violated the original intention of the legislators and has also caused great damage to the taxpayers' rights and interests.

What is more, the presiding judge of the August 2, 2024, case was the same judge who had made the No. 228 judgment in 2005 against Tai Ji Men. Later, the Supreme Administrative Court reversed his judgment. It was clear that the judge knew that his wrong judgment had been rejected by the Supreme Administrative Court. How could he make this ill-founded judgment again?

I believe that history serves as a mirror. I trust that the judge who dared to make such a ruling should receive himself the appropriate evaluation or judgment. We hope that the Supreme Administrative Court can take the people's perspective into account regarding this internationally noted case and render a judgment that will be just and respects taxpayers' rights, thereby restoring the innocence of Tai Ji Men's Shifu (Grand Master) and dizi (disciples).



*Tai Ji Men dizi (disciples) demonstrating outside Taichung High Administrative Court on August 2, 2024.*

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## **Injustice is served: A wrong administrative decision against Tai Ji Men**

***The Tai Ji Men case might have been solved by the Taichung High Administrative Court on August 2. The court missed the opportunity.***

*by Massimo Introvigne*

[Bitter Winter](#) (17.08.2024) - Readers of "Bitter Winter" are familiar with [the Tai Ji Men case](#), a freedom of religion or belief and tax justice issue that is pending in Taiwan from the remote year 1996. Now, there was a golden opportunity to solve what has become

an international embarrassment for Taiwan: a new President, a new government, a new court case, new arguments, the possibility of a pragmatic yet just solution. Unfortunately, the opportunity was missed. Injustice, not justice, was served by Taichung High Administrative Court on August 2, 2024.

A short summary of the Tai Ji Men case may be in order for those few readers unfamiliar with what is now a cause célèbre among international religious liberty scholars and activists. Tai Ji Men is an ancient menpai (similar to a school) of qigong, martial arts, and self-cultivation. When they join Tai Ji Men, and in other special occasions, dizi (disciples) express their gratitude to their Shifu (Grand Master) by giving him red envelopes including money. In the case of dozens of qigong and martial arts and religious groups that operate in Taiwan, it has always been recognized that the content of the red envelopes corresponds to a customary practice, should be considered as gifts, and is not taxable.

In 1996, Tai Ji Men with several other religious and spiritual movements became the victim of a politically motivated purge. It was accused of fraud and tax evasion. In 2007, the Supreme Court with a final decision declared Tai Ji Men defendants innocent of all criminal charges, including tax evasion. In the meantime, however, based on the ill-founded criminal prosecution, the National Taxation Bureau (NTB) had issued tax bills for the years 1991 to 1996 by claiming that the content of the red envelopes was not gift but a tuition fee for a "cram school," i.e., a school imparting crash courses on different matters (normally in preparation of exams).

After the 2007 Supreme Court decision, the NTB tried to maintain the tax bills but eventually, after protracted litigation, had to correct to zero all of them except the one for the year 1992. In fact, the tax bills had been the subject matter of separate litigations and for the year 1992 the Supreme Administrative Court had rendered in 2006 a decision against Tai Ji Men that was technically final. The NTB argued that no different disposition was possible.

From the point of view of common sense, the NTB's position was untenable. What happened with respect to the red envelopes in 1992 was in no way different from the other years. Several authorities in Taiwan had also clarified that Tai Ji Men was not a cram school, and there were no "tuition fees." In democratic countries, normally a patently wrong decision can always be reconsidered and rectified, particularly when new facts emerge. In this case, the new fact was the Supreme Court decision of 2007, to which a further decision of 2018 by the Supreme Administrative Court reiterating that Tai Ji Men is not a cram school was later added.

Undaunted, the NTB maintained the tax bill for 1992, which was enforced in 2020 by confiscating, unsuccessfully auctioning off, and nationalizing land in Miaoli that Tai Ji Men considered sacred and intended for a self-cultivation and educational center. This generated widespread protests by Tai Ji Men and their supporters in Taiwan and the United States, where the movement is also active. It also created a serious problem of international image for Taiwan, which is part of the international community criticizing Mainland China for its violations of religious liberty and is placed in a difficult position when it is accused of not respecting freedom of religion and belief at home.

Tai Ji Men offered to the Taichung High Administrative Court the opportunity to solve the matter, by filing a new lawsuit where it asked for a refund of whatever might have been considered as payment for the fabricated 1992 tax bill.

Unfortunately, the Taichung judges ruled once again that the 2006 decision about the 1992 tax bill was final. They added insult to injury by suggesting that the tax bill for 1992 might have been based on different grounds than those for the other years. Not only was this argument false. It had been denied by the NTB itself. The NTB for the Central Area issued two letters in 2010, on June 23 and July 26, confirming that the tax bills for all years from 1991 to 1996 were based on the same underlying facts.

We can add that the Taichung High Administrative Court is notorious for siding with the government bureaucrats against the citizens, particularly in tax cases. For example, Judge Liu Xi-Xian who rendered the August 2 decision gave to tax bureaucrats in 2012 a winning streak of 56 consecutive cases he judged. He ruled against taxpayers in all of them. Other judges of the same courts such as Lin Chiu-Hua and Zhuang Jin-Chang have similar records.

It remains the possibility that the Supreme Administrative Court will rectify the injustice. Or that Taiwanese politics will find a solution for a case that is increasingly embarrassing for Taiwan's image and international reputation.

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