

The Tai Ji Men Case: A Legal Analysis

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ABSTRACT: Tai Ji Men, a Taiwan-based *menpai* (similar to a “school”) of Qigong, martial arts, and self-cultivation was among the victims of a 1996 politically motivated crackdown on independent spiritual movements. Although his leader and his co-defendants were eventually acquitted of all charges, including tax evasion, the National Taxation Bureau (NTB) continued to claim, to this very day, that for the fiscal year 1992 taxes had been evaded and a payment was due. Since Tai Ji Men refused to compromise for reasons of principle, in 2020 land belonging to his leader, Dr. Hong Tao-Tze, was auctioned and confiscated. The paper analyzes the Tai Ji Men case, which has attracted international interest, from the point of view of Taiwanese law, and concludes that the human rights and rights as taxpayers of Dr. Hong and Tai Ji Men were seriously violated.

KEYWORDS: Tai Ji Men, Hong Tao-Tze, Tai Ji Men Tax Case, Spiritual Movements in Taiwan, Taoism, Esoteric Taoism, Taxes and Religion, Taxes and New Religious Movements.

Introduction

Tai Ji Men Qigong Academy is a *menpai* (similar to a “school”) of Qigong, self-cultivation, and martial arts rooted in esoteric Taoism, established in 1966. Over the past half century, the Academy has always been a non-profit organization. It

has been widely praised by incumbent and former presidents of Taiwan (Action Alliance to Redress 1219 2021c), as well as other high-ranking international government officials (Action Alliance to Redress 1219 2020c). This praise notwithstanding, Tai Ji Men has been involved in a tax case that lasted for 25 years and has not been solved to this day (Jacobsen 2020; Introvigne 2021). In this article, we examine the Tai Ji Men tax case from the point of view of Taiwanese law.

The Supreme Court Declared Tai Ji Men Not Guilty of Tax Evasion or Any Other Charges

In 1996, Taiwan's government launched a political purge against a number of spiritual movements (Introvigne et al. 2020), and Tai Ji Men was caught in the crossfire. After receiving a false and anonymous report, the Kaohsiung and Hsinchu District Prosecutor's Offices both conducted investigations, and found nothing illegal about Tai Ji Men. They soon closed the case, and no charge was filed.

However, Prosecutor Hou Kuan-Jen of the Taipei District Prosecutors Office, who had also received the false and anonymous report, ignored the investigation results of Kaohsiung and Hsinchu, and decided to search and investigate Tai Ji Men. Unable to obtain any criminal evidence, Prosecutor Hou summoned a tax officer named Yue-Sheng Shih from the National Taxation Bureau (NTB) to give a false statement, six days before he brought his public prosecution. The tax officer, who had never been to the Tai Ji Men Qigong Academy or conducted any real investigation, falsely claimed that Tai Ji Men was a "cram school," i.e., a school where pupils receive training for passing exams against a fee, and was suspected of evading taxes.

Prosecutor Hou never gave the Grand Master (*shifu*) of Tai Ji Men, Dr. Hong Tao-Tze, any chance to explain or cross-check the statement of the tax officer, nor did he inform Hong about the reason for the charges, which was against the law. The prosecutor simply used the tax officer's inaccurate statement as the only evidence to charge Tai Ji Men with tax evasion. Hou forwarded the case to the NTB, which subsequently treated Tai Ji Men as a cram school, and imposed unjustified taxes and heavy penalties for the years 1991–96 without any legal basis.

In 2007, the Criminal Division of the Supreme Court, which acquitted Dr. Hong and his co-defendants from all criminal charges filed by Hou, found Tai Ji Men not guilty of fraud, tax evasion, or violation of tax codes, and confirmed that since the monetary gifts (in the form of “red envelopes”) offered by the *dizi* (disciples) to their *shifu* were indeed gifts, they were tax-free income under Article 4, Subparagraph 17 of the Income Tax Act. As for the collective procurement of items, such as the uniforms for practicing qigong, which Hou and the NTB also claimed was taxable, the court stated that it was conducted by some Tai Ji Men *dizi* on behalf of other *dizi*, which was not a for-profit act. Therefore, it had nothing to do with Dr. Hong and his wife, and was a non-taxable transaction. In 2009, all the defendants in this case who had been unjustly detained were awarded national compensation for unlawful imprisonment, which further confirmed that Tai Ji Men was wrongfully accused and there had been no crimes, including no tax evasion.

Despite the fact that the NTB did not conduct any investigations in accordance with its authority and duty, the tax bill was still issued to Tai Ji Men. Before the criminal decision was issued, the then Deputy Finance Ministers Wang Teh-Shan and Wang Jung-Chou all stated that, since the Tai Ji Men tax case was derived from a criminal case, the tax bills would be revoked if a not-guilty criminal decision would be issued. After the Supreme Court acquitted Tai Ji Men, Yen Ching-Chang, former Finance Minister and Taiwan’s Representative to the WTO, said that there was no reason for the administrative agencies to refrain from citing the facts determined by the criminal court. They also said that the tax dispositions arising from the ill-fated prosecution in the criminal case should be revoked in accordance with the law, and that the enforcement should be revoked immediately.

According to the Administrative Court’s decisions No. 13 of 1940, No. 18 of 1943, and No. 16 of 1953, the NTB should have revoked the tax bills based on the results of the criminal judgment. Instead, the NTB continued to treat the tax-exempt gifts as taxable income, and levied income taxes. It also imposed business taxes on *dizi*’s mutual assistance activity of collective procurement of uniforms and other items, which had been declared a nontaxable practice, and not connected with Dr. Hong and his wife, by the Supreme Court. The NTB imposed taxes on the wrong party and on nontaxable practices. The tax dispositions, which

involved an error of fact and an error of law, were thus unlawful. Therefore, the tax bills have been invalid from the very beginning.

Due Process Was Violated

On December 19, 1996, the prosecutor and investigators searched Tai Ji Men's premises, and on the same day, false information about Tai Ji Men was disseminated. The following day, major newspapers reported that Tai Ji Men had defrauded NT\$3.1 billion and was involved in tax evasion. However, according to the bank's written reply to the prosecutor dated December 28, 1996, the total balance in the two relevant accounts frozen by Hou was just over NT\$610,000 (and it was neither tuition nor business income as claimed by the prosecutor). Disregarding the bank's reply, the prosecutor continued to falsely claim that the two accounts amounted to more than NT\$3.2 billion.

On the one hand, the prosecutor claimed that the money was proceeds of fraud, and requested the court to confiscate them according to the law; on the other hand, the prosecutor also claimed that the money was operating income and tuition income of a cram school, and referred the case to the NTB for taxation, which violated the principle of double jeopardy. Tai Ji Men is neither a for-profit organization nor a cram school. The Ministry of Education issued two official letters between 1997 and 2000 to confirm that Tai Ji Men is not a cram school, and the same Ministry publicly confirmed the fact again at a public hearing in the Legislative Yuan. There was no tuition income or operating income in the bank accounts.

In October 1997, during the criminal trial of the Tai Ji Men case, the court sent an inquiry letter to the NTB of Taipei about the tax issue, and the NTB of Taipei assigned an officer, Chien Chen-So, to assist with the case on October 22. However, Chien did not fulfill his legal obligation to carry out an investigation. He simply used Hou's statements and the inflated amount of NT\$3.2 billion in the indictment, and completed the so-called investigation report within two days on October 24. He falsely claimed that Tai Ji Men was a cram school, and notified the NTB of the Central Area accordingly. This report caused the NTB of Taipei and the NTB of the Central Area to impose, in December 1997, unjustified taxes and heavy penalties for the years 1991 to 1996 (Tan, Ding, and Huang 2016).

The NTB knew that the indictment had a serious contradiction in the determination of the nature of the income, but it failed to abide by the law to wait for the criminal judgement, nor did it investigate the matter in accordance with its duties. It failed to give the party concerned an opportunity to make an explanatory statement, and failed to bear the burden of proof in accordance with Article 12.1 of the Tax Collection Act. It also failed to investigate each transaction of the bank accounts of the party concerned. Instead, the NTB imposed taxes and heavy penalties on Dr. Hong and his wife based on the false indictment and the fabricated amount of income. Over the past 25 years, Dr. Hong and his wife have inquired the NTB 29 times by letter about the legal principles and evidence of the alleged tuition fees of more than NT\$3.2 billion. However, the NTB has never given a clear reply, which violated the principle of clarity in administrative actions under Article 5 of the Administrative Procedure Law.

The NTB had not investigated the matter in accordance with its duties since the very beginning. The NTB in its letter (Tsai-Pei-Guo-Shui-Fa-Tzu No. 87122414 dated March 27, 1998), stated that the Tai Ji Men tax case was investigated by the Taipei field office of the Investigation Bureau rather than the NTB. The NTB's letter to the Taipei field office of the Investigation Bureau (Tsai-Pei-Guo-Shui-Fa-Tzu No. 89008316 dated March 7, 2000) stated, "The content, nature, and amount of the tax bill imposed by our office was based on the information and calculation provided by your office." This clearly showed that the NTB of Taipei and the NTB of the Central Area imposed the taxes without investigating the matter in accordance with their duties. Therefore, the tax bills should be regarded as invalid.

The legislative intent of Article 83-1 of the Income Tax Act states that the adoption of the indirect income verification method should be approved in advance by the Ministry of Finance, to avoid abuses and justify its execution. The Ministry of Finance also states that two important conditions must be met for its application: first, there must be a suspicion of evading a substantial tax amount, and second, it must be approved by the Ministry of Finance, neither of which can be dispensed with.

In the Tai Ji Men case, the NTB adopted the indirect verification method to derive taxes under Article 83-1 of the Income Tax Act, without receiving the approval of the Ministry of Finance in advance. That was in violation of the statutory procedural requirements, and in violation of the rule that no estimation

of penalties is allowed even if the estimation of taxes is applied. Former Deputy Director of the Taxation Administration under the Ministry of Finance, Hsu Chun-An, also stated publicly on November 24, 2009, that the NTB did not submit its proposal to use the indirect verification method to the Ministry of Finance, and it was already too late to submit it for approval. Since the tax collection period had already expired, the NTB could not submit it anymore, another reason why the tax bills have been invalid from the very beginning.

Former member of the Presidential Human Rights Advisory Committee and Distinguished Professor of the Department of Financial and Economic Law at Chung Cheng University, Huang Chun-Chieh pointed out in his article “Review of Tax Assessment and Legal System for Remedies” at the “Constitutional Law Symposium on the Recurring Tax Bills and Exit Restrictions” (Huang 2014) that the adoption of the indirect income verification method should be done in a cautious manner according to strictly applicable requirements, and at the same time satisfy two pre-conditions. First, there must be a suspicion that a substantial tax amount has been evaded, and second, the proposal to use the indirect verification method must be submitted to the Ministry of Finance for approval. Between them, the approval by the Ministry of Finance is the prior legal requirement. If it is not approved by the Ministry of Finance, the administrative act shall be considered as irreparable by applying Article 111, Paragraph 6 of the Administrative Procedure Act, and the sanction shall be that it should be declared null and void.

The NTB should issue its recheck decision within two months after the receipt of the application in accordance with Article 35 of the Tax Collection Act. However, in the Tai Ji Men tax case, the NTB issued its recheck decisions more than two months after its tax dispositions were revoked by the Appeals and Petitions Committee under the Ministry of Finance or the court. The NTB of the Central Area even issued its third recheck decision on August 19, 2003, after the Appeals and Petitions Committee revoked the tax disposition for the second time on September 5, 2001. It was delayed by two years after the two-month statutory period had expired. That was a serious violation of J.Y. Interpretation No. 677 by the Constitutional Court: “In matters involving people’s rights and interests, even delaying by one day is against the Constitution.” Therefore, the tax bills, which were issued after the assessment period had expired, have been invalid since they were issued (Action Alliance to Redress 1219 2021e).

Control Yuan Investigations

The Control Yuan issued its investigation opinion in the document (91)-Yuan-Tai-Si-Tzu No. 0912600349, enumerating eight major violations of law by Prosecutor Hou Kuan-Jen in his investigation of the Tai Ji Men case, including violation of the requirement that the prosecutorial investigation should not be disclosed, illegal searches, illegal asset freezing, violation of the defendants' rights, and undermining judicial credibility and the prosecutors' reputation. The Control Yuan referred this matter to the Ministry of Justice to pursue relevant liabilities and disciplinary action against the prosecutor. The investigation report further indicated that the indictment and the evidence contradicted each other, and thus the prosecutor's bringing the public prosecution evidently violated the rule of evidence.

Prosecutor Hou admitted that he did not conduct a thorough investigation and, without the permission from his supervisors, he also directly issued letters to the Ministry of the Interior and eight city and county governments, demanding them to disband Tai Ji Men, and sent letters to the Taipei City and County governments, demanding them to shut off water and electricity to the movement (Tan, Ding, and Huang 2016). Prosecutor Hou also admitted that he froze all the assets of the *shifu* and his wife simply based on the one-sided allegations of some witnesses. Prosecutor Hou also admitted that he failed to verify the so-called "list of victims" of Tai Ji Men before bringing the prosecution. Moreover, the indictment was a statement by the prosecutor and needed to be verified by the court. It is evident that the NTB failed to investigate the matter according to its duties, and that the tax bills were issued simply based on the criminal indictment and had major and obvious flaws. This is another reason why the tax bills have been invalid from the very beginning.

The Control Yuan also issued the (98) Yuan-Tai-Tsai-Tzu No. 0982200593 Letter on its investigation, detailing seven major violations of law by the NTB in the Tai Ji Men tax case: failure to fulfill its duty to conduct a thorough investigation and do adequate verification; failure to actively clarify the nature of the income ex officio, which was obviously negligence; failure to pay attention to portions of documents both favorable and unfavorable to the taxpayers, and so on. Former Control Yuan Member Chien Lin Hui-Jun said at a press conference and forum on redressing fabricated cases, on July 13, 2017, that she had listed seven

corrections with respect to the NTB's action in the Tai Ji Men case. She noted that every time she brought out the correction, the NTB said, "Ah! We made a mistake!" In 2011, she told the Minister of Finance, "This case should be closed now!" (Action Alliance to Redress 1219 2020b; Action Alliance to Redress 1219 2021d).

The Tax Bill for the Year 1992 Was Unlawful

Regarding the consolidated income tax bill for 1992, the NTB violated due process of law, failed to conduct a thorough investigation according to its authority before issuing the tax bill, hid evidence favorable to the taxpayer, and failed to give the parties concerned an opportunity to explain the matter. Therefore, the tax bill for 1992 was unlawful, and the judgment concerning the tax bill was incorrect. According to the ICCPR (International Covenant on Civil and Political Rights) and the ICESCR (International Covenant on Economic, Social and Cultural Rights), the government has the obligation to provide effective remedies to its citizens.

In accordance with the spirit of Article 177 of the Administrative Litigation Act, the Taichung High Administrative Court should have put on hold the litigation proceedings, and awaited the determination of the nature of the income by the criminal court, which has a higher standard for investigation, and evaluated the admissibility of evidence, when adjudicating the case of the consolidated income taxes for 1991–95. However, the Taichung High Administrative Court, before the final decision on the nature of the income was made by the criminal court (July 13, 2007), rendered its ruling in 2005, revoking the tax bills for 1991, 1993, 1994 and 1995, but sustaining the consolidated income tax bill for 1992.

The NTB of Taipei was in charge of investigating the 1996 consolidated income tax case. The tax bill issued by the NTB of Taipei for 1996 was revoked by sixteen judges of the Taipei High Administrative Court and the Supreme Administrative Court on four occasions, in September 2005, August 2009, March 2015, and July 2015, respectively. The tax bill for 1992, which was issued based on the same method of taxation and the same evidence as the other years, was obviously wrong, too.

After conducting the investigation and preparation procedures in four court sessions for the consolidated income tax case for 1991–95, the appointed judge Huang Shu-Ling in the High Administrative Court was suddenly transferred to the Supreme Administrative Court. The succeeding judge Hsu Wu-Feng directly proceeded to debate the proceedings, skipping the passage of the preparatory hearing. Judge Hsu also privately obtained the transcripts of the prosecutorial investigation from the NTB of the Central Area, and did not provide the transcripts to the parties concerned for cross examination. Furthermore, he even ignored the fact that the evidence favorable to Tai Ji Men's *shifu* was concealed by the NTB of the Central Area, which inaccurately recorded that only five people declared their red envelopes to the *shifu* were gifts, when in fact all of the respondents considered their red envelopes as gifts. Ignoring the fact that the consolidated income taxes for 1991–95 were of the same nature and based on the same facts, Judge Hsu discretionarily made a ruling in favor of the NTB for 1992, which was contradictory to the decisions for the other years.

Dr. Hong filed an appeal to the Supreme Administrative Court. However, the Supreme Administrative Court reviews the procedures and the laws applied and does not examine the facts. Furthermore, Judge Huang Shu-Ling, who had participated in the substantive trial previously and had pre-formed her opinions about the case, failed to recuse herself pursuant to law, heard the case in the Supreme Administrative Court, and turned it down. This severely violated Dr. Hong's right to a fair trial. Over the past 25 years, Judge Huang has tried 34 proceedings of the Tai Ji Men tax case. She has formed her prejudice; therefore, Tai Ji Men did not have any chance to win these cases. That was a serious violation of the basic human rights to an effective remedy and a fair trial, which are guaranteed by the ICCPR and the ICESCR.

All the tax demands imposed on Tai Ji Men by the NTB originated from Prosecutor Hou Kuan-Jen's indictment. Hou falsely claimed the same money as income of fraud and tuition income of a cram school, at the same time, and the criminal case was tried. It was necessary to clarify whether the money was income of fraud or tuition income of a cram school. It could not be both. If it was income of fraud, there would be no issue of tuition income and tax evasion, as the government cannot impose taxes on proceeds of fraud. The criminal trial was to clarify the facts. Therefore, before the criminal decision was rendered, how could the NTB issue the tax bill without conducting a thorough investigation according

to its authority, and how could the administrative court make an arbitrary decision on its own? Moreover, the NTB has never carried its burden of proof according to the law since the beginning of the case, and issued the tax bills simply based on the faulty indictment from the prosecutor.

As mentioned earlier, in 2007, the final criminal decision confirmed that the *shifu* and his co-defendants were not guilty of fraud, tax evasion, or violation of the Tax Collection Act, and it was determined that the red envelopes given to the *shifu* were gifts and thus were tax-free income under Article 4, paragraph 17 of the Income Tax Act. The decision also ruled that the procurement of items through mutual assistance among the *dizi* was not a profit-oriented sale and was not a taxable event. Huang Kun-Guang, who was a former senior tax auditor of the NTB of Kaohsiung in charge of major tax evasion cases, said that the tax bureau falsely claimed that Tai Ji Men was a cram school and imposed taxes on nontaxable income. That clearly violated the law, including the tax laws.

In addition, in 2012, the NTB also admitted that Tai Ji Men is not a cram school, which indicated that the basis for the tax bill was wrong from the very beginning. Therefore, the NTB should withdraw the erroneous tax bill according to the spirit of the rule of law. The judgment numbered 422 made by the Supreme Administrative Court in 2018 acknowledged that Tai Ji Men is a *menpai* of qigong, martial arts, and self-cultivation and also pointed out that its original ruling for 1992 failed to take into consideration the decision made by the criminal court as well as the fact that all of the 7,401 public survey forms from Tai Ji Men *dizi* indicated the red envelopes were gifts, and thus they were tax-free income. The 2018 ruling confirmed that the decision for the consolidated income tax for 1992 was wrong, and the tax disposition was unlawful as well.

No Tuition or Business

Since 1966, Tai Ji Men Qigong Academy has successively joined and become a member of the Taipei Martial Arts Association, the Chinese Martial Arts Association, the Chinese Qigong Association, the Taoism Association of Taipei City, and the Chinese Taoism Association. Over the past few decades, the *shifu* and *dizi* of Tai Ji Men have followed the regulations of martial arts and Taoist groups, and their stated objective is to promote culture and purify people's hearts. Tai Ji Men has been highly praised by the Qigong Association, Martial

Arts Association and Taoism Association. It is by no means a for-profit institution, and it has never conducted any for-profit activity. Under no circumstances has Tai Ji Men been a cram school.

However, Tai Ji Men was taxed as a cram school for 1992 notwithstanding the fact that the Ministry of Education, the competent authority of all cram schools, stated that Tai Ji Men is not a cram school in its letter dated October 2, 1997 (No. 860115257) and another letter dated November 15, 1999 (Tai-88-She-1-Tzu No.88139298). It also indicated that “Tai Ji Men indeed is not a cram school” in a public hearing held by the Legislative Yuan on December 21, 2000.

During the court session in the Taipei High Administrative Court on November 17, 2004, Liu Li-Hsia, an agent of the NTB of Taipei, said, “Tai Ji Men is not a cram school, and thus the defendant (referring to the NTB) does not deny this.” On July 27, 2005, Liu Li-Hsia, who appeared in court again, even admitted that no income tax had been imposed on other martial arts associations. The judge questioned why the NTB had treated Tai Ji Men differently from the others. The NTB of Taipei’s recheck decision issued on August 3, 2012, and the NTB of the Central Area’s recheck decision issued on November 27, 2013, both acknowledged that Tai Ji Men is not a cram school and that the red envelopes were gifts (Tan, Ding, and Huang 2016).

According to the Ministry of Finance’s official letter and directive in 1975, “Religious leaders are exempt from income tax on gifts from believers.” In 2003, the Taipei Martial Arts Association, the Chinese Martial Arts Association, and the Chinese Qigong Association issued letters, attesting to the fact that their members had never been taxed because of receiving monetary gifts from their disciples. There are tens of thousands qigong, martial arts, religious and spiritual groups in Taiwan, and no other masters have been taxed for receiving donations or monetary gifts from their believers.

According to the letter No. 69135 issued by the Education Department of the Taiwan Provincial Government in 1997, an organization of qigong or other folk arts is incompatible with the purpose of setting up a short-term cram school, so it is not allowed to register as a cram school. According to an NTB’ letter in 1987 (Shui-2-Tzu No. 03378), and a Ministry of Finance letter in 1995 (Tai-Tsai-Shui-Tzu No. 841634845), an organization of qigong and martial arts does not need to register itself as a for-profit enterprise according to the law, and it does not belong to the category of taxable businesses.

The NTB of Taipei and the Taipei City Revenue Service performed on-site audits at Tai Ji Men in 1994, 1995, and 1996, and confirmed that there were no items for sale there, and the tax agencies did not issue any business tax bills or profit-seeking business income tax bills to Tai Ji Men. In addition, the department in charge of business registration of the City of Taipei sent a staff member to the Tai Ji Men Qigong Academy and conducted a business inspection on November 13, 1996, confirming that “the academy is a martial arts academy. Qigong is taught, and there are no business activities.” Thus, Tai Ji Men is not a profit-seeking organization, having no issues of business tax, business income tax, or fines.

On December 9, 2011, the Executive Yuan organized an inter-ministerial meeting, and it was resolved that the criminal indictment could no longer serve as the basis of taxation, and a public survey would be conducted to investigate the nature of the red envelopes. The survey results showed that 100% of the 7,401 respondents indicated the red envelopes were gifts, and no one declared them as tuition fees, which was consistent with the findings in the final criminal decision (Tan, Ding, and Huang 2016; Action Alliance to Redress 1219 2021b).

The Public Hearing of June 17, 2010

During a public hearing in the Legislative Yuan on June 17, 2010 (Action Alliance to Redress 1219 2020a), the Ministry of Finance and the NTB of the Central Area agreed to withdraw the compulsory enforcement for the 1992 consolidated income tax, and to resolve the Tai Ji Men tax case within two months. After the public hearing, Lee Sush-Der, the then Finance Minister, sent letters to Legislators Tien Chiu-Chin, Twu Shiing-Jer, and Justin Chou, stating that regarding the feasibility of revoking the enforcement of the consolidated income tax of Dr. Hong for 1992, the finance minister had asked the NTB of the Central Area to take the facts into consideration and take necessary action pursuant to Article 40 of the Tax Collection Act.

The NTB of the Central Area and its Miaoli Branch also sent letters to the Hsinchu Branch of the Administrative Enforcement Agency, stating that, since the consolidated income taxes and fines for 1991–96 were based on the same basic facts, it would tremendously affect the taxpayer’s rights if different judgments were made. Thus, they requested the Hsinchu Branch of the

Administrative Enforcement Agency to stop the enforcement pursuant to the proviso of Article 9, Paragraph 3 of the Administrative Execution Act. Since the taxes related to the red envelopes for the other five years were corrected to zero, the auction should have been stopped.

In 1999, while the criminal case was still under trial, 82 legislators of the 4th term of the Legislative Yuan signed a joint petition asking the NTB to cancel the illegal tax dispositions as the tax bills issued by the NTB were in violation of procedural justice. In November 2013, thirty-three legislators co-signed a proposal requesting the Ministry of Finance to revoke the unlawful tax bills according to the resolutions of the inter-ministerial meeting organized by the Executive Yuan. To date, over 300 legislators from different parties have been using different methods, such as conducting endorsements, proposing bills, coordinating meetings, as well as holding interpellation sessions, press conferences, and public hearings, directly pointing out the taxation bureau's violations of law and demanding the NTB to revoke the tax bills. However, for years the NTB has continued violating the law, imposing unjustified taxes and illegal compulsory enforcement, repeatedly deceiving the citizens, wasting taxpayer dollars, and harming the country and the people.

The Strange Case of the 1992 Tax Bill

Since its establishment in 1966 till 1990, and from 1997 till today (2021), Tai Ji Men Qigong Academy had never been taxed. Why should Tai Ji Men be taxed in 1991–96? The NTB of Taipei and the NTB of the Central Area have corrected the consolidated income tax amount related to the monetary gifts for the *shifu* for 1991, 1993, 1994, 1995, and 1996 to zero in late 2019. However, Tai Ji Men was still taxed as a cram school for 1992.

For the past 55 years, Tai Ji Men Qigong Academy has always been a *menpai* of qigong, martial arts, and self-cultivation as well as a public welfare cultural and religious group. Its nature has been confirmed by the Chinese Martial Arts Association, Chinese Qigong Association, Taipei Martial Arts Association, the Chinese Taoism Association and the Taoism Association of Taipei City, the Ministry of the Interior, the Taipei City government and the Supreme Administrative Court's decision No. 422 in 2018. Based on the principles of administrative consistency, estoppel, administrative self-restraint, and

constitutional equality, the NTB and the Enforcement Agency of the Ministry of Justice should immediately revoke the tax bill, stop the compulsory enforcement, and return the unlawfully confiscated land, which was intended to be the building site for a self-cultivation center for Tai Ji Men.

The Taipei High Administrative Court Requested the NTB of the Central Area Twice to Correct the 1992 Taxes to Zero

The Taipei High Administrative Court sent letters to the NTB of the Central Area on May 5 and July 23, 2020, and forwarded a copy to the Hsinchu Branch of the Administrative Enforcement Agency. In the letters, a statement from the Supreme Administrative Court's Judgment No. 422 in 2018 was quoted, which stated that the tax authorities were not bound by the Supreme Administrative Court's original decision on the consolidated income tax for 1992, as there were new facts and evidence that were not recognized or taken into consideration in the original tax disposition for 1992. The Taipei High Administrative Court requested that the NTB of the Central Area follow the same standard by which the taxes were corrected to zero for 1991, 1993, 1994, and 1995, and withdraw the enforcement in accordance with Article 40 of the Tax Collection Act. Therefore, there was a legal basis for the NTB of the Central Area to revoke the enforcement.

The Hsinchu Branch of the Administrative Enforcement Agency clearly knew that there was a problem with the justification of the enforcement. Accordingly, the enforcement should have been stopped immediately pursuant to the law, and the case should have been returned to the Miaoli Branch of the NTB of the Central Area. However, the Hsinchu Branch violated the law and forced the auctions, resulting in irreparable loss to Tai Ji Men's master and *dizi*.

More Abuse from the Hsinchu Branch of the Administrative Enforcement Agency

As discussed in the previous paragraphs, in 2007, the Criminal Division of the Supreme Court found Tai Ji Men not guilty of tax evasion or any other charges, and stated that Tai Ji Men did not owe any tax. There was no legal basis for the levy of the consolidated income tax for 1992, and the NTB has never carried its burden of proof in accordance with Article 12-1 of the Tax Collection Act. Also, the calculation of the tax amount was wrong and illegal. During the public hearing

in the Legislative Yuan on June 17, 2010, the Ministry of Finance and the NTB of the Central Area agreed to withdraw the compulsory enforcement for the 1992 consolidated income tax. Later, the Ministry of Finance sent letters to the NTB of the Central Area, demanding that the enforcement of the Tai Ji Men tax case should be withdrawn. Also, the NTB of the Central Area and its Miaoli Branch sent letters to the Hsinchu Branch of the Administrative Enforcement Agency to ask the Hsinchu Branch to stop the illegal auction.

Even though it was aware that the tax imposed was not justified according to the law, the Hsinchu Branch still carried out the enforcement order against the proviso of Article 9, Paragraph 3 of the Administrative Execution Act.

On March 28, 2019, Lin Ching-Tsung, the director-general of the Administrative Enforcement Agency, issued a letter (Hsin-Chi-Tsung-Tzu No. 10830002180) to the Hsinchu Branch, requesting it to actively carry out the auction, and coordinate efforts to confiscate and nationalize the land of the master of Tai Ji Men. Despite the fact that the value of the seized land was far more than the requested tax amount, the Administrative Enforcement Agency even asked the Shilin and Kaohsiung branches to seal Tai Ji Men's academies in Nangang, Taipei, and Lainan Street in Kaohsiung, as well as Dr. Hong's real estate in the Swiss Mountain Villa community in Xizhi.

In May 2019, when the Hsinchu Branch asked him whether it could apply to the Administrative Court for a stay of execution, Director-general Lin Ching-Tsung asked it to continue the enforcement process. In an official document dated March 2, 2020, the Hsinchu Branch premeditatedly asked the Shilin Branch whether it agreed to record the Hsinchu Branch's performance and to split half of the performance bonus from handling the Tai Ji Men case with the Hsinchu Branch. Making such a request was outrageous, and shows the real purpose pursued by some rogue bureaucrats. What is worse, the enforcement agency illegally leaked the personal information and enforcement details of the parties concerned via the media, which was a violation of privacy.

According to the aforementioned document, Director-general Lin Ching-Tsung and Deputy Director-general Chen Ying-Chin of the Enforcement Agency are both suspected of violating the taxpayers' rights. They seriously infringed on the freedom of thought, freedom of religion, freedom of belief, the right to participate in cultural life, and human rights of Tai Ji Men's *shifu* and *dizi*, wasting

administrative resources, judicial resources, and public funds, incurring high social costs, and harming the reputation of the country.

The Hsinchu Branch Trespassed on Private Land Without Notifying the Parties Concerned, and Unlawfully Auctioned Dr. Hong's Land

According to the spirit of Articles 77 and 77-1 of the Compulsory Enforcement Act, if a land survey is to be carried out, the Administrative Enforcement Agency should notify the parties concerned to be present. However, the parties concerned did not know about the survey until they read the survey record made by the Hsinchu Branch. On April 12, 2019, at 10:00 a.m. and June 18, 2020, at 10:20 a.m., executive officers of the Hsinchu Branch and their team entered the private land located at Tongluo Township, Miaoli County, to conduct a land survey, without informing the parties concerned. That was a clear violation of Article 306 of the Criminal Code.

On July 31, 2020, the Hsinchu Branch carried out the auction of 52 pieces of land without completing all the surveys. It was obviously deceiving the bidders, since the exact locations of these lots were not specified before the auction. Furthermore, while the original auction announcement posted on the auction venue did not limit the number of people that could enter the auction site, the announcement was changed at the last minute to restrict admission to three persons only. Bidders were refused to enter the venue to monitor the auction process or submit additional necessary documents before the auction started. All this severely violated the principle of openness and transparency of the auction. Not surprisingly, the auction failed.

It was evident that the Hsinchu Branch insisted on forcefully depriving Tai Ji Men of the land, which was intended to be the site for their self-cultivation center. This has caused enormous damage to their property and reputation. Furthermore, the representative of Dr. Hong had already pointed out the aforementioned procedural flaws on the spot and asked for rectification, but the Hsinchu Branch simply ignored them, and went ahead to announce immediately through the media that another auction would be held on August 21.

On the day of the second auction, when there was no valid bid, the NTB of the Central Area and the NTB of Taipei joined hands to immediately confiscate 50

pieces of Tai Ji Men's land (52 pieces were auctioned during the first auction, and 50 pieces among them were selected to be confiscated after the second auction). The Administrative Enforcement Agency and the NTB violated due process and ignored the law, and the repeated statements of disagreement of the parties concerned on June 16, July 13, July 31, August 18, August 21, and August 26, 2020. These government agencies deprived the parties concerned of their lawful rights and interests, and furthermore, they harmed the country and illegally benefited the national treasury, themselves, and some others.

The NTB Owes Tens of Millions to Dr. Hong and His Wife

The NTB of Taipei knew that all the assets of Dr. Hong and his wife had been unlawfully seized and frozen by the prosecutor and that on May 9, 1998, it had already imposed a ban on the disposal of the assets of the *shifu*'s wife, and there was no risk for tax preservation. However, on July 15, 2003, it still transferred the consolidated income tax case for 1996 to the Taipei Administrative Enforcement Division (now renamed as Taipei Branch) of the Administrative Enforcement Agency under the Ministry of Justice for execution.

On August 12, 2003, the Taipei Branch issued a seizure or execution order to 30 banks and 49 investment companies across the country, regardless of whether they were the banks or investment companies Dr. Hong and his wife had established accounts with, seriously harming the reputation and credit of the *shifu* and his *dizi*. That was a serious violation of human rights.

On August 22, 2003, Dr. Hong's wife filed an application to the NTB, stating that she would provide the assets as collateral as soon as the Taipei District Court will lift the property freeze. The NTB approved the application on August 29, and sent a letter to the Taipei Branch of the Administrative Enforcement Agency to postpone the enforcement. The Taipei Branch agreed to postpone the enforcement by two months to November 2, 2003. A not-guilty criminal decision was rendered on September 25, 2003. On October 7 of the same year, Dr. Hong and his wife filed an application to the court to request the lift of the freeze, stating that property would be provided to the NTB as collateral once the freeze will be lifted. The Taipei District Court then officially lifted all the frozen assets on October 15.

To have its enforcement order executed, the NTB of Taipei forged the issuance date of an official letter which was signed off by its director-general Chang Sheng-Ford, by backdating the letter from October 20 to October 15 (i.e., the date when the court released the frozen assets). This was done to conceal the fact that the NTB knew that the court had released the frozen assets. The letter was sent to the Taipei Branch of the Administrative Enforcement Agency, asking it to carry out the enforcement. After Mrs. Hong's savings had been illegally withdrawn, and her stocks unlawfully sold without her knowledge, a notice stating that the enforcement order had been executed was sent to the parties concerned on November 6, 2003. The parties concerned were deprived of their right to file their objections.

In 2005, only after the Administrative Court uncovered the date of the document and the suspected forgery, the NTB of Taipei did refund the money from the illegal enforcement in the disguise of "tax refund." However, the NTB of Taipei still refused to reimburse the interest accrued and the loss caused by the illegal selling of the stocks, totaling as high as NT\$30 million in terms of opportunity cost, and it also refused to return the confiscated bank savings. Additionally, the NTB of the Central Area owed Dr. Hong over NT\$3.36 million, including the accrued interest, because it had illegally used the tax refund to pay the alleged tax, and illegally confiscated Dr. Hong's bank savings.

A Serious Case of Human Rights Violation

In the Tai Ji Men case, basic human rights, guaranteed by the Constitution, and the ICCPR and ICESCR, have been violated. The Control Yuan initiated an investigation into the case and listed it as a landmark case of gross human rights violations. The case was also listed as a landmark case of taxpayer's rights in the "ROC Centenary, Taxation and Human Rights White Paper" (Chinese Association for Human Rights, National Taiwan University Law School of Finance, and Taxation Law Research Center 2011). International human rights experts and domestic law and tax experts and scholars also voiced their support for Tai Ji Men (Action Alliance to Redress 1219 2020d). In 2013, when the International Review Committee of the ICCPR and ICESCR came to Taiwan to examine the national human rights reports, they inquired about the status of the Tai Ji Men tax case in particular.

An Italian sociologist of religion, Massimo Introvigne, not only wrote, with other international experts, a white paper entitled *Justice Denied: The Tai Ji Men Case in Taiwan* (Introvigne et al. 2020), but also directed a film titled *A Question of Justice: The Tai Ji Men Tax Case in Taiwan* (Introvigne 2021), whose first version had its world premiere at a side event organized on November 19, 2020 during the third Ministerial to Advance Freedom of Religion or Belief, organized by the U.S. Department of State and others.

In 2021, CAP-LC, an NGO with special consultative status at the ECOSOC (Economic and Social Council), filed a written statement about the Tai Ji Men case and other cases of abuse of tax law targeting spiritual movements at the 47th session of the United Nations Human Rights Council (CAP-LC 2021).

Among the 794 interpretations made by the Grand Justices of the Judicial Yuan during the course of its history (as of August 28, 2020), 131 are related to taxation. In the tax field, 56 laws and interpretation letters have been declared unconstitutional. The way the spirit or principle of the Constitution is violated by 17 of the unconstitutional interpretation letters is evident in the Tai Ji Men tax case.

Conclusion

A tax bill is invalid if it violates any provision of the Constitution, due process of law, procedural justice, or procedural legitimacy. Over the past 25 years, all the evidence has proved that Tai Ji Men has never owed any tax. In fact, the NTB of the Central Area and the NTB of Taipei owe the master of Tai Ji Men and his wife millions of Taiwan dollars. However, the administrative authorities have made mistakes repeatedly, abused their power, bullied the people, and even forcefully auctioned the land of Tai Ji Men's *shifu*, which was intended to be the building site for a self-cultivation center for Tai Ji Men.

Since the government exists to serve its people, and its power comes from the people's mandate, it should act in accordance with the law to protect the people's rights. If the government makes mistakes, it should correct them. Under no circumstances can a few rogue officials from the Ministry of Finance, the NTB, or the Administrative Enforcement Agency hijack the whole country and undermine democracy, the rule of law, and human rights through acts that arbitrarily violate

freedom of thought, belief, religion, and culture, and disobey the Constitution, the ICCPR, the ICESCR, and the Universal Declaration of Human Rights. Their doing has damaged the country's image and reputation in a crucial period of its history.

It is the spirit of democracy and progress to redress fabricated cases and grievances caused by the authoritarian governments in the past. Taiwan, which claims to be a democracy adhering to the rule of law, has also begun to implement the two international human rights covenants. The administrative agencies should perform their duties according to the law, protect human rights, and severely punish officials who abused their power, violated the law, and persecuted innocent citizens (see Action Alliance to Redress 1219 2021a).

The Supreme Court has acquitted the master of Tai Ji Men and his co-defendants, and ruled that they were not guilty of tax evasion. The illegal tax bill should be revoked accordingly. The Control Yuan also investigated the handling of the Tai Ji Men case by the prosecutor and the NTB, and found that there were many serious violations of law by both the prosecutor and the tax authorities. The Supreme Administrative Court also put forward its latest opinion on the case, confirming that the consolidated income tax bill for 1992 was unjustified, and its original judgment for 1992 was wrong. Additionally, the NTB of the Central Area and the NTB of Taipei have corrected the tax amount related to the red envelopes for 1991, 1993, 1994, 1995, and 1996 to zero. The year 1992 was no different from the other years. According to the principles of administrative consistency, administrative self-restraint, estoppel, and equality, the NTB of the Central Area should treat the consolidated income tax for 1992 the same way as it did for the other years.

On February 20, 2021, the eve of the UN's World Day of Social Justice and the 228 Peace Memorial Day, Huang Kun-Kuang, a former senior auditor of the NTB of Kaohsiung responsible for major tax evasion cases, pointed out that the Tai Ji Men case was indeed a case of illegal taxation, and that the property must be returned to the victims, at an international conference titled "Reflection on Abusive State Power in the 228 Incident" (Huang K. 2021).

On January 23, 2021, at an international forum on "Realizing Democracy and Freedom with Conscience-driven Education" in support of the World Freedom Day (January 23) and the UN's International Day of Education (January 24), Attorney Huang Ti-Ying, president of the Taiwan Forever Association, publicly

stated that in accordance with the amended provisions under Article 128 of the Administrative Procedure Act, the administrative agency could revoke the illegal consolidated income tax bill for the year 1992 and stop the enforcement, based on new facts and new evidence (Huang T. 2021). The government should prevent the wrong and illegal tax disposition for 1992 from continuing to hurt the victims, and should stop abusing human rights, incurring high social costs, and consuming countless taxpayer dollars, administrative resources, and judicial resources.

Whether Taiwan will be perceived as a democratic and free nation depends on whether the government is willing to face up to the problem of administrative violence, correct the mistakes, and return justice to its citizens. Tai Ji Men's *shifu* and *dizi* have been persecuted for 25 years. Their journey to redress the injustices has been filled with blood and tears. They hope to awaken the conscience of the government so that transitional justice can be realized and the Constitution of the Republic of China (Taiwan), the Universal Declaration of Human Rights, and the two international human rights covenants can be maintained.

To protect democracy, the rule of law, human rights, liberty, and freedom of religion, belief, and culture, the government must implement the human rights protection, guaranteed by the Constitution and the ICCPR and ICESCR. Government officials must adhere to facts, evidence, conscience, fairness, and justice while following the law to revoke the illegal tax bill and the illegal auction. The money owed by the NTB and the confiscated land intended for building a Tai Ji Men self-cultivation center shall be returned to Dr. Hong and Tai Ji Men. The government should clear the names of Tai Ji Men's *shifu* and *dizi*, and return justice to them.

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