

J. Y. Interpretation No.703 (October 5, 2012) *

【Depreciation deductions for the capital expenditures for the fixed assets acquired by the hospitals established as non-profit foundations.】

ISSUE: As prescribed by an administrative regulation, hospitals that are affiliated with public interest groups are not allowed to take depreciation deductions if capital expenditures have been previously taken for the full amount for the purpose of qualifying for tax exemption. Does this administrative regulation violate the Constitution ?

RELEVANT LAWS:

Article 19 of the Constitution (憲法第十九條) ; Judicial Interpretation No. 399, No. 576, No. 582, No. 620, No. 622, No. 640, No. 664, No. 674, No. 675, No. 692, and No. 698 (司法院釋字第三九九號、第五七六號、第五八二號、第六二〇號、第六二二號、第六四〇號、第六六四號、第六七四號、第六七五號、第六九二號及第六九八號解釋) ; Article 4, Section 1, Paragraph 13 of the Income Tax Act, as amended on January 19, 1979 (中華民國六十八年一月十九日修正公布之所得稅法第四條第一項第十三款) ; Article 24, Section 1 of the Income Tax Act, as amended on May 30, 2006 (九十五年五月三十日修正公布之所得稅法

* Translated by Chun-Jen Chen.

** Contents within frame, not part of the original text, are added for reference purposes only.

第二十四條第一項) ; Article 2, Section 1, Paragraph 8 of the Standards Applicable for Education, Culture, Public Charity Organizations or Groups on Their Exemption from Income Taxation, as amended on December 30, 1994 (八十三年十二月三十日修正發布之教育文化公益慈善機關或團體免納所得稅適用標準第二條第一項第八款) ; Point 1, Paragraph 5, Resolutions 1 and 3 of the Letter (han) Ruling Tai Shui Yi Fa No. 841664043, issued by the Taxation Administration, Ministry of Finance on December 19, 1995 (財政部賦稅署八十四年十二月十九日台稅一發第八四一六六四〇四三號函一(五)決議1及決議3) .

KEYWORDS:

rely upon in effect (實質援用), material relevance (重要關聯), taxation in accordance with the law (租稅法律主義), the principle of matching income with costs and expenses (收入與成本費用配合原則), public interest groups (公益團體), the full amount of the expenses is listed as capital expenditures (全額列為資本支出), depreciation deductions (按年提列折舊), tax base (稅基), tax fairness (租稅公平), competition neutrality (競爭中立) .**

HOLDING: Point 1, Paragraph 5, Resolutions 1 and 3 of the Letter (han) Ruling Tai Shui Yi Fa No. 841664043, issued by the Taxation Administration, Ministry of Finance, on December 19,

解釋文: 財政部賦稅署中華民國八十四年十二月十九日台稅一發第八四一六六四〇四三號函一(五)決議1與3, 關於財團法人醫院或財團法人附屬作業組織醫院依教育文化公益慈善

1995, interpreting Article 2, Section 1, Paragraph 8 of the Standards Applicable for Education, Culture, and Public Charity Organizations or Groups on Their Exemption from Income Taxation, state that, if capital expenditures have been taken for the full amount for assets such as buildings and equipment for health care purposes in the year of their procurement, hospitals established as nonprofit foundations or as part of such foundations have to deduct the amount of such expenditures from their “income arising from sources other than the sales of goods or services” (xiaoshou huowu huo laowu yiwai zhi shouru), and that such hospitals cannot take any depreciation deductions in the following years. Resolutions 1 and 3 violate Article 19 of the Constitution, which requires that taxation be in accordance with the law; therefore, they should cease to be relied upon on the day this Interpretation is announced.

REASONING: The petitioner claimed that Point 1, Paragraph 5, Resolutions 3 of the Letter (han) Ruling Tai Shui Yi Fa No. 841664043 issued by the Taxa-

機關或團體免納所得稅適用標準第二條第一項第八款規定之免稅要件，就其為醫療用途所購置之建物、設備等資產之支出，選擇全額列為購置年度之資本支出，於計算課稅所得額時，應自銷售貨物或勞務以外之收入中減除及以後年度不得再提列折舊部分，違反憲法第十九條租稅法律主義，應自本解釋公布之日起不再援用。

解釋理由書：本件聲請人主張最高行政法院九十六年度判字第一八六二號判決、臺北高等行政法院九十五年度訴字第二六八六號、第三一〇三

tion Administration, Ministry of Finance on December 19, 1995 (hereinafter referred to as Disputed Resolution) may be unconstitutional and filed the current petition. The Letter Ruling is the basis upon which the following judgments were rendered: Pan Zi No. 1862 (2007) of the Supreme Administrative Court, Su Zi Nos. 2686 and 3103 (2006), Su Zi No. 2731 (2007), Su Zi No. 2838 (2008), Su Zi No. 1862 (2009), Su Zi No. 1866 (2010), and Su Zi No. 1476 (2011) of the Taipei High Administrative Court (together hereinafter referred to as the Final Judgments). Although the Disputed Resolution was not explicitly cited in the opinion of Su Zi No. 3103 (2006), judging from the legal opinions provided by Su Zi No. 3103 (2006) Disputed Resolution 3 was in effect relied upon by Su Zi No. 3103 (2006) and, therefore, was also reviewed when considering the current petition (see Judicial Interpretation Nos. 399, 582, 622, 675, and 698).

When an individual whose rights protected by the Constitution are illegally infringed upon and initiates a litigation

號、九十六年度訴字第二七三一號、九十七年度訴字第二八三八號、九十八年度訴字第一八六二號、九十九年度訴字第一八六六號及一〇〇年度訴字第一四七六號判決（下併稱確定終局判決）所援用之財政部賦稅署八十四年十二月十九日台稅一發第八四一六六四〇四三號函一（五）決議（下稱系爭決議）3有違憲疑義，聲請解釋。查其中臺北高等行政法院九十五年度訴字第三一〇三號判決理由中雖未明確援用系爭決議3，但由其所持法律見解判斷，應認其已實質援用，應併予受理（本院釋字第三九九號、第五八二號、第六二二號、第六七五號、第六九八號解釋參照）。

人民於其憲法上所保障之權利，遭受不法侵害，經依法定程序提起訴訟，對於確定終局裁判所適用之法律或

to raise the issue of the constitutionality of the statute or regulation being applied by the final judgments in accordance with Article 5, Section 1, Paragraph 2 of the Constitutional Interpretation Procedure Act, the object of review by this Court is not limited to the law or regulation being challenged within the petition; instead, the object of review by this Court includes the laws or regulations relied upon as the basis of the final judgments that are materially relevant to the petition (see J.Y. Interpretation Nos. 664 and 576). Alleging that Disputed Resolution 3 as applied by Final Judgments may be unconstitutional, the petitioner complied with the procedural requirements for filing a petition. In addition, as the part of Resolution 1 of the same Letter Ruling stating that “the full amount taken as capital expenditure in the year of procurement concerning the activities that are related to the objectives of the establishment of the Education, Culture, and Public Charity Organizations or Groups shall be subtracted from ‘revenue not arising from the sale of goods or labor services,’” is materially relevant to the attribution of costs in the same manner as

命令發生有牴觸憲法之疑義，依司法院大法官審理案件法第五條第一項第二款規定聲請本院解釋憲法時，本院審查之對象，不以聲請書所指摘者為限，尚可包含該確定終局裁判援引為裁判基礎之法令中，與聲請人聲請釋憲之法令具有重要關聯者在內（本院釋字第六六四號、第五七六號解釋參照）。本件聲請人就確定終局判決援用之系爭決議3，認為有違憲疑義，聲請本院解釋，符合聲請解釋之要件。又同決議1關於「全額列為購置年度與其創設目的活動有關之資本支出，自銷售貨物或勞務以外之收入中減除」部分，因與決議3具有成本歸屬意義下之重要關聯，故應為本案審查之對象，一併納入解釋範圍。

432 J. Y. Interpretation No.703

is Resolution 3 and, therefore, shall also be subject to review by this Court in this case.

Article 19 of the Constitution states that individuals have the obligation to pay taxes in accordance with the law, and it means that when the state levies taxes on, or provides preferential tax treatment to, individuals, the essential terms, such as the taxpayer, the subject matter of the taxation, the attribution between the subject matter and the taxpayer, the tax base, the tax rate, the taxing method, and the date on which the tax becomes payable, among other things, shall be explicitly stipulated by statute. The competent authority interpreting the relevant laws must uphold the constitutional principles and the legislative purposes of the relevant laws, and apply the generally accepted methods of legal interpretation; any decision that exceeds the scope of legal interpretation and increases tax obligations that are not mandated by the law is not permitted by the principle of taxation in accordance with the law under Article 19 of the Constitution (see J.Y. Interpretation Nos. 620, 622,

憲法第十九條規定，人民有依法
律納稅之義務，係指國家課人民以繳納
稅捐之義務或給予人民減免稅捐之優惠
時，應就租稅主體、租稅客體、租稅客
體對租稅主體之歸屬、稅基、稅率、納
稅方法及納稅期間等租稅構成要件，以
法律明文規定。主管機關本於法定職權
就相關法律所為之闡釋，自應秉持憲法
原則及相關法律之立法意旨，遵守一般
法律解釋方法而為之；如逾越法律解
釋之範圍，而增加法律所無之租稅義
務，則非憲法第十九條規定之租稅法律
主義所許（本院釋字第六二〇號、第
六二二號、第六四〇號、第六七四號、
第六九二號解釋參照）。

640, 674, and 692).

The first part of Article 24, Section 1 of the Income Tax Act states: “The income of a profit-seeking enterprise is its net profit amount, having subtracted all costs, expenses, losses, and taxes from its gross revenue of the fiscal year.” (This provision was amended on May 30, 2006 by adding a second part to the first paragraph; after the amendment, therefore, the original Section 1 became the first part of Section 1.) In other words, the revenue of a profit-seeking business becomes its net profit, after the subtraction of all costs, expenses, losses, and taxes. Based on the principle of matching income with costs and expenses, only the costs, expenses, losses, and taxes that are incurred for the purpose of producing the revenue may be deductible. For fixed assets with a useful life of two years or longer, the annual depreciable amount shall be considered as costs (see Article 51 of the Income Tax Act) to correctly reflect the costs and expenses for the procurement of fixed assets in each respective year. In essence, as long as a cost or an expense can be direct-

所得稅法第二十四條第一項前段規定：「營利事業所得之計算，以其本年度收入總額減除各項成本費用、損失及稅捐後之純益額為所得額。」（本條項於九十五年五月三十日修正增訂後段規定，其修正前第一項之規定即為修正後第一項前段之規定）亦即營利事業之收入，於減除各項成本費用、損失及稅捐後之純益額，始為營利事業所得額。依收入與成本費用配合原則，得自收入減除之各項成本費用、損失及稅捐，應以為取得該收入所發生者為限。耐用年數二年以上之固定資產應以其逐年折舊數認列為成本（所得稅法第五十一條規定參照），以正確反映固定資產之採購使用在各年度之成本費用。要之，成本費用如可直接合理明確歸屬於應稅所得及免稅所得，即應依其實際之歸屬核實認列，始符合所得稅法第二十四條第一項之規定。

ly, reasonably, and clearly attributed to either “taxable income” or “income exempt from taxation,” it should be so attributed, so as to comply with Article 24, Section 1 of the Income Tax Act.

The Disputed Resolution 1 states: “When hospitals established as nonprofit foundations or as part of such foundations calculate their taxable income in accordance with Article 2-1 (now Article 3) of the Standards Applicable for Education, Culture, and Public Charity Organizations or Groups on Their Exemption from Income Taxation, depreciation deductions shall be taken annually against the assets newly acquired for health care purposes, such as buildings and equipment, under the relevant provisions under the Income Tax Act, *mutatis mutandis*, and be categorized “the costs or expenses for the sales of goods or the rendition of services.” Should the capital expenditures stated above are related to the activities of the purpose for which the organization was established, the hospital may choose one of two options: to take annual depreciation with deduction from “the income

系爭決議1：「財團法人醫院或財團法人附屬作業組織醫院依免稅標準第二條之一（現行第三條）計算課稅所得額時，其為醫療用途新購置之建物、設備等資產，應比照適用所得稅法相關規定按年提列折舊，列為銷售貨物或勞務之成本費用。上開資本支出如與其創設目的活動有關，得選擇按年提列折舊，自銷售貨物或勞務之收入中減除，或全額列為購置年度與其創設目的活動有關之資本支出，自銷售貨物或勞務以外之收入中減除；……」同決議3：「財團法人醫院或財團法人附屬作業組織醫院為醫療用途所購置之資產全額列為購置年度與其創設目的活動有關之資本支出者，以後年度不得再提列折舊。」依上述決議，上開資本支出如選擇全額列為購置年度與其創設目的活動有關之資本支出，於計算課稅所得額時，自銷售貨物或勞務以外之收入中減除，而不得按年自銷售貨物或勞務之收入中減除。

arising from the sales of goods or the rendition of services,” or to list the full amount as “capital expenditures related to the objective of establishment” for the fiscal year of procurement.” The Disputed Resolution 3 states: “If capital expenditures have been taken for the full amount for assets such as buildings and equipment for health care purposes in the year of their procurement, hospitals established as non-profit foundations or as part of such foundations cannot take any depreciation deductions in the following years.” In accordance with Resolutions 1 and 3, if a taxpayer elects to treat the entire amount of the purchase as “capital expenditures related to the objective of its establishment in the year when the purchase was made,” when calculating the taxable income, the amount of such expenditures shall be deducted from the “income arising from sources other than the sales of goods or the rendition of services,” rather than from “income arising from the sales of goods or rendition of services.”

of the Income Tax Act provides that if an educational, cultural, public interest, or charitable organization or group (hereinafter referred to as a public interest group) who meets the criteria set out by the regulations promulgated by the Executive Yuan, its own income or the income of its subordinate operations (fushu zuoye zuzhi) shall be exempt from income taxation. Under the authorization of Paragraph 13, the Executive Yuan amended, on December 30, 1994, the Standards Applicable for Education, Culture, and Public Charity Organizations or Groups on Their Exemption from Income Taxation (hereinafter referred to as Standards for Tax Exemption). Article 2, Section 1, Paragraph 8 stipulates: "For any educational, cultural, public charity organization or group that meets the following requirements, its own income or the income of its subordinate operations is exempt from income taxation., except for 'the income from the sale of goods or rendition of services,' ... (8) The expenditures incurred for the activities related to its objective of establishment that do not fall below 80% of the sum of the proceeds that accrued

款規定，教育、文化、公益、慈善機關或團體（下稱公益團體），符合行政院規定標準者，其本身之所得及其附屬作業組織之所得，免納所得稅。依該款之授權，行政院訂定並於八十三年十二月三十日修正發布之教育文化公益慈善機關或團體免納所得稅適用標準（下稱免稅適用標準）第二條第一項第八款規定：「教育、文化、公益、慈善機關或團體符合左列規定者，其本身之所得及其所附屬作業組織之所得，除銷售貨物或勞務之所得外，免納所得稅。……八、其用於與其創設目的有關活動之支出，不低於基金之每年孳息及其他經常性收入百分之八十者，但經主管機關查明函請財政部同意者，不在此限。」（本款於九十二年三月二十六日修正為：「八、其用於與其創設目的有關活動之支出，不低於基金之每年孳息及其他各項收入百分之七十者。但經主管機關查明函請財政部同意者，不在此限。」）該款規定，公益團體之支出占收入之比率達百分之八十，為免稅適用標準所定免稅要件之一。縱然非銷售貨物或勞務所得達到免稅適用標準，惟於計算銷售貨物或勞務之所得時，就其為醫療用途所購置之建物、設備等資產之支出，仍應依所得稅法相關規定，按年

annually for its funds and its other regular income; however, this requirement is waived if, after the investigation done by the relevant government offices, the Ministry of Finance approved the exemption from taxation.” (Paragraph 8 was amended on March 26, 2003 as follows: “The expenditures incurred for activities related to its objective of establishment that do not fall below 70% of the sum of the proceeds that accrued annually for its funds and its other regular income; however, this requirement is waived if, after the investigation done by the relevant government offices, the Ministry of Finance approved the exemption from taxation.”) Paragraph 8 requires that the expenditures must have reached 80% of its revenue to qualify a public interest group for tax exemption. Even if “the income arising from sources other than the sales of goods or the rendition of services” has met the requirement set out by the Standards for Tax Exemption, depreciation deductions must be taken annually against the expenditures for the procurement of buildings or equipment for healthcare purposes and listed as costs and expenses for “the in-

提列折舊，列為銷售貨物或勞務之成本費用，自銷售貨物或勞務之收入中減除，俾成本費用依其實際之歸屬核實計算。系爭決議1 准許財團法人醫院或財團法人附屬作業組織醫院得選擇將其為醫療用途新購之建物、設備等資產，全額列為購置年度與其創設目的活動有關之資本支出，則其於以後年度，即不得再將上開資本支出列為計算免稅適用標準之支出，然其銷售貨物或勞務所得之計算，則仍應按年提列折舊，列為銷售貨物或勞務之成本費用，始符所得稅法第二十四條第一項前段之規定。系爭決議1，有關上開資本支出如為適用上開免稅要件，而選擇全額列為購置年度之資本支出，於計算課稅所得額時，應自銷售貨物或勞務以外之收入中減除部分，及同決議3 所示以後年度不得再提列折舊，此否准法律所定得為扣除之成本費用，與上開所得稅法第二十四條第一項前段之規定不符，無異以命令變更法律所規定之稅基，違反憲法第十九條租稅法律主義，應自本解釋公布之日起不再援用。惟在銷售貨物或勞務所得之計算上，財團法人醫院或財團法人附屬作業組織醫院為醫療用途所購置資產之支出，既經核實認列為銷售貨物或勞務之成本費用，而依所得稅法相關規定許

438 J. Y. Interpretation No.703

come arising from the sale of goods or the rendition of services” in accordance with the relevant provisions of the Income Tax Act. Such depreciation deductions have to be subtracted from “the revenue arising from the sales of goods or the rendition of services” so that the costs and expenses are accurately calculated. The part of Disputed Resolution 1 that requires, if the full amount of such capital expenditures is treated as “capital expenditures” in the year of procurement, the subtraction of capital expenditures from “the income arising from sources other than the sales of goods or the rendition of services” when calculating the amount of taxable income, and the part of Disputed Resolution 3 that disallows depreciation deductions in the following years, essentially deny the deductibility of the costs and expenses allowed by the first half of Article 24, Section 1. In other words, the administrative regulations promulgated by the Ministry of Finance changes the tax base stipulated by the Income Tax Act passed by the Legislative Yuan, which violates the principle of taxation in accordance with the law, and, therefore, should cease

其按年提列折舊，則在非銷售貨物或勞務所得之計算上，同筆資產支出即不得全額認列為購置年度之資本支出，並自銷售貨物或勞務以外之收入中減除，始能貫徹所得稅法第二十四條第一項前段規定之意旨，並符租稅公平之原則，乃屬當然。

to be applied on the day this Interpretation is announced. It should be noted, however, that as the expenditures incurred by hospitals established as non-profit foundations or as part of such foundations for the procurement of assets for healthcare purpose are, after verification, listed as “the costs and expenses for the sales of goods or the rendition of services” when calculating “the income arising from the sales of goods or the rendition of services,” and annual depreciation is allowed under the Income Tax Act, when calculating “the income arising from sources other than the sales of goods or the rendition of services,” the same expenditures cannot be listed as capital expenditures in the full amount for the year of procurement and be deducted from “the income arising from sources other than the sales of goods or the rendition of services.” In so doing the intent of the front portion of Article 24, Section 1 of the Income Tax Act can be realized and the principle of tax fairness be upheld.

The immediate case of whether the

本件違憲爭議實源於所得稅法對

law in question is unconstitutional arises from the fact that the Income Tax Act exempts the income of public interest groups from taxation. In order to realize the legislative purpose of encouraging public interest work while taking into account tax fairness, the Executive Yuan, being authorized to promulgate the Standards for Tax Exemption, allows public interest groups to engage in revenue-seeking activities, but explicitly excludes their profits from the scope of their exemption from taxation. In addition, as a mean to urge public interest groups to concentrate their resources on activities that are consistent with the purposes of their establishment, the Executive Yuan caps their profit-seeking income with a certain ratio between expense and income. Such a cap has already caused significant problems for groups whose principal activities are public interest in nature. Take hospitals—the subject matter of this Interpretation—for example. First, they are highly regulated by the relevant government offices over their public interest activities. Secondly, in terms of the sale of goods or the rendition of services, hospitals, whether they

公益團體所得免徵所得稅之規定。為落實立法意旨、兼顧鼓勵從事公益及租稅公平之考量，被授權訂定免稅適用標準之行政院，先開放公益團體同時從事收益活動，再明確排除其營利所得之免稅；且為促使公益團體集中其資源投入於符合創設目的之活動，並儘量降低營利所得於一定比率範圍內，而設有收支比之管制。此一管制對於主要活動為單純公益之團體，在免稅上已造成諸多困擾。而對本件解釋涉及之醫院而言，一則對於其投入公益原已處於目的事業主管機關之高度管制下，二則均以銷售貨物或勞務為主，公益與非公益團體之醫院間存有直接競爭關係，使得此一管制之操作極易影響租稅公平與競爭中立。主管機關允宜就此一併檢討，併此指明。

pursue public interest or not, compete directly. The cap is, therefore, susceptible to manipulation that adversely affects tax fairness and competition neutrality. The relevant government offices should also review this aspect.

With regard to the petitioner's claim that the Supreme Administrative Court judgment (98) Pan Zi No. 488 (2009) relied on Disputed Resolution 3, and should therefore be part of its petition for constitutional interpretation, this Court finds that the said judgment did not rely on Disputed Resolution 3, and that this part of the petition does not meet the requirements set out by Article 5, Section 1, Paragraph 2 of the Constitutional Interpretation Procedure Act (sifa yuan dafaguan shenli anjian fa), and should, therefore, be dismissed under Section 3 of the same provision.

Justice Mao-Zong Hung filed concurring opinion.

Justice Beyue Su Chen filed concurring opinion.

Justice Chang-fa Lo filed concur-

至聲請人指稱最高行政法院九十八年度判字第四八八號判決援用系爭決議3，並據以聲請解釋憲法部分，查上開判決並未援用該決議，是其聲請核與司法院大法官審理案件法第五條第一項第二款規定不符，依同條第三項規定，應不受理。

本號解釋黃大法官茂榮提出協同意見書；陳大法官碧玉提出協同意見書；羅大法官昌發提出協同意見書；湯大法官德宗提出協同意見書；蘇大法官永欽提出部分不同意見書；池大法官啟明提

442 J. Y. Interpretation No.703

ring opinion.

Justice Dennis Te-Chung Tang filed concurring opinion.

Justice Yeong-Chin Su filed dissenting opinion in part.

Justice Chi-Ming Chihf filed dissenting opinion, in which Justice Hsi-Chun Hung joined.

Justice Sea-Yau Lin filed dissenting opinion.

Justice Hung Hsi-Chun filed dissenting opinion, in which Justice by Justice Ming Chen joined

EDITOR'S NOTE:

Summary of facts: The petitioner, Hsing Tian Kong Healthcare Services, (1) in its tax filings for Education, Culture, and Public Charity Organizations, Groups and Their Operations from 1997 to 2001, failed to report any depreciation and amortization expenses for the buildings and equipment purchased for healthcare purpose with the net balance accrued between 1993 and 1996 and with government approval. The petitioner subsequently applied to correct these tax filings by amortizing such expenses. (2) Part

出，黃大法官璽君加入之部分不同意見書；林大法官錫堯提出不同意見書；黃大法官璽君提出，陳大法官敏加入之不同意見書。

編者註：

聲請人行天宮醫療志業醫療財團法人，(一)86至90年度教育文化公益慈善機關團體及其作業組織結算申報，未列報其82至85年度結餘款經核准保留所購建醫療建物設施、設備等資產按年提列之折舊費用及各項攤提，嗣始申請增列該等資產之折舊費用，更正86至90年度所得稅結算申報；(二)91至97年度結算申報所列報之部分支出，係上揭82至85年度結餘款所購建固定資產按年提列之折舊費用及各項攤提。上述更正申請及申報均經財政部臺灣省北區國稅局依財政部賦稅署中華民國

of the expenses reported on the tax filings from 2002 to 2008 were amortized depreciations for the fixed assets purchased with the net balance accrued from 1993 to 1996. The aforementioned applications and corrected tax filings were rejected for the reason that, once the full amount for the purchase of the aforementioned assets have been reported as capital expenditures in the year when the purchase was made, no depreciation deductions may be taken in the subsequent years. The rejection was done by the National Taxation Bureau for the Northern Area, Ministry of Finance in accordance with Disputed Resolutions 1 and 3 of Letter (han) Ruling Tai Shui Yi Fa No. 841664043, which was issued by the Taxation Administration, Ministry of Finance on December 19, 1995. The petitioner was therefore required to pay additional taxes of tens of millions of New Taiwan dollars.

The petitioner disputed the tax assessment and sought remedies through administrative appeals (suyuan) and administrative litigation, but the petitioner lost the cases. The petitioner then request

84年12月19日台稅一發第841664043號函決議1、3，認其於購建上述資產時全額列為資本支出以後年度即不得提列折舊而否准，另核定應補繳稅捐計達數千萬元。

聲請人不服，循序提起行政爭訟請求救濟，均遭駁回確定，爰以確定終局判決所適用之系爭決議1、3有牴觸憲法疑義，聲請解釋。

444 J. Y. Interpretation No.703

for a Judicial Interpretation on the ground that the aforementioned Disputed Resolutions 1 and 3, being relied upon by the final court judgment, may have violated the Constitution.